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LORD ROSEBERY AND THE PREMIERSHIP.

Now that Mr. Gladstone has dropped out of the firmament, Lord Rosebery is unquestionably the most interesting figure in English politics. He has displaced Mr. Chamberlain, whose heritage to this position at one time seemed secure. Mr. Chamberlain is now *rangé*. People know pretty well what he will say and do in particular circumstances, and guess with assurance how far he will go in the end. They have grown quite accustomed to finding the inventor of the Unauthorized Programme of 1885, the apostle of the doctrine of Ransom, seated in an armchair in the Cabinet Council presided over by Lord Salisbury, buttressed by Sir Michael Hicks-Beach, and cheered by the presence of Mr. Chaplin.

To a man's preëminence in English politics it is necessary that he should have the indefinable gift of interesting the public. In quite varying fashion Mr. Disraeli and Mr. Gladstone had this gift in supreme degree. Sir William Harcourt has occasionally seemed to reach the eminence, but has never quite dwelt upon it. He is more interesting as a House of Commons man than as one capable of moving what is called the great heart of the people. Mr. Arthur Balfour has potentialities in this direction, and, if he cared to cultivate the part, might shine in it. The secret does not dwell with the Duke of Devonshire, Sir Michael Hicks-Beach, Mr. Goschen, or Lord Salisbury. Lord Salisbury has the power latent, but industriously stifles it. He must needs, by reason of his position, be in pretty regular attendance at the House of Lords, and once a year must stand up in a big hall and hide his scorn of the class of mankind and womenfolk who wear the decoration

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of the Primrose League. On the whole, to put it in most genial form, he hates his fellow-man, and would rather be a doorkeeper in the seclusion of Hatfield than dwell in the tents of London Society. Lord Randolph Churchill wielded the magic spell. So does Mr. Chamberlain; and so does the Earl of Rosebery.

Wherein Lord Rosebery excels is, that, whilst he is an attractive personality, whether in the frigid atmosphere of the House of Lords, at public dinner-tables in the metropolis, or on platforms in the provinces, he piques and pleases the popular fancy by a certain attribute of mystery. The Man in the Street, the most potent actor in English politics, plumes himself on knowing everything. That conceded, he likes to feel himself almost baffled by a particular study. This is daily provided for him in the problem, What is Lord Rosebery going to do? Will he, when the trumpet calls at the Dissolution, come to the front and lead a united and inspirited Liberal Party to victory, or will he still dally in the grove; "letting 'I dare not' wait upon 'I would'"; protesting he has no longer part or place in politics; and occasionally, *à propos de bottes*, setting political parties by the ears with incisive speech? Assumption of an air of mystery is probably undesigned in the case of Lord Rosebery. At the same time, we reflect that it has always been effective, from the time of Mahomet, through the days of the first Napoleon, down to that of Mr. Disraeli.

Lord Rosebery's public career, as far as it has run, has been checkered by two circumstances—one absolutely, the other in great measure, beyond his control. If he had not had the misfortune to be born to the heritage of a peerage, his course would have been almost monotonously direct. He is essentially a House of Commons man, and, once elected to the Chamber, would have inevitably worked his way, against whatever odds, to the Premier's place. Debarred from access to the House of Commons, he has in other directions sedulously set himself to minimize the disqualification of his rank. The average peer is content to dwell apart, secure of a seat in the Legislature. Having, in most cases, adequate revenues, he really wants nothing from the common people, unless it be their obeisance. Since he was of age to take part in public affairs, Lord Rosebery has shown himself as much drawn toward what Mr. Gladstone called the masses as Lord Salisbury holds himself aloof. He did an immense and lasting benefit to the London County Council by associating himself with it from the date of its birth. Nor was he content to be an ornamental president. He gave himself up to the work with all the zest of a newly elected alderman who has no

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other outlet in public life for his energy and his administrative ability. The position involved a good deal of drudgery. But, whilst the London County Council benefited by Lord Rosebery's experience and his rare managerial capacity, he also earned his guerdon in the fuller knowledge acquired and in the wider popularity gained. When he joined Mr. Gladstone's Ministry in 1892, he took the opportunity of withdrawing from the Chair of the County Council. Since then, whether in office or out of office, he has always shown himself willing, even happy, to take part in the play and work of the people, whether at the dinner-table, in the cricket or football field, or at public meetings summoned for charitable or other good works.

He has already achieved the renown of being the happiest and most effective after-dinner speaker of the day. In the United States that, possibly, is not a distinction which ranks very high. It is too common a gift to excite attention. As reading and writing came to *Dogberry* by nature, so to the American citizen comes the capacity for after-dinner speaking. With us sombre islanders, it is different. In nine cases out of ten, the speeches made after dinner involve an act of penance, for which retrospection of the *menu* does not provide adequate compensation. When the accustomed gloom is broken by a sparkling speech, the guests are grateful accordingly. In Lord Rosebery's case, the pleasure is widely spread. Newspaper editors, with a keen eye for good copy, report his after-dinner speeches verbatim; and thus, standing at a dinner-table, talking to some fourscore or tenscore diners-out, Lord Rosebery knows he has the nation listening at the doors.

Some speeches, whether delivered in Parliament or outside, are effective at the moment. Some read well in the papers. Some combine both attractions. Listening to the Duke of Devonshire, yawning and groaning through a harangue in a half-empty and altogether sleepy House of Lords, one gains the idea that he is saying nothing rising above the level of the muddiest commonplace.

> "O the dreary, dreary moorland!
> O the barren, barren shore!"

Many years ago, when the Duke was still with us in the Commons, I invented a story about him, which found wide currency in an unconventional weekly journal. It was to the effect that, taking his hostess down to dinner on a night after he had made a long harangue in the House of Commons, she told him she had heard that he had yawned once or twice during his speech. "I cannot believe it possible," she

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persisted. "Ah," replied Lord Hartington, repressing a tendency to yawn at the very thought of the experience, "but you did not hear the speech." It is gratifying to a romancist to hear that the Duke of Devonshire has at this time of day honestly adopted the story as his own, and tells it against himself with good-humored gusto. The fable has its only value as illustrating the effect upon an unprejudiced listener to the Duke's parliamentary speeches. If, however, one takes up "The Times" of the next day and reads a more or less verbatim report of a speech of the Duke's, he will find it brimful of common sense, cogent in reasoning, and imbued with a high tone of statesmanship.

To these qualities Lord Rosebery superadds the charm of graceful speech, in turn witty, humorous, pathetic, eloquent. The House of Lords—the architectural construction of its chamber making it the sepulchre of speech—is, on ordinary occasions, the dreariest assembly of mortal men not being a shipwrecked crew foregathered on the fifth day of debarkation on a desert island. Upon occasion, it rises to heights of oratory in which, reversing the ordinary position of things, it leaves the House of Commons in the second rank. Such a time was the day when both Houses met to mourn the death of Mr. Gladstone. In the House of Lords the Premier led off the stately service of lamentation. He was followed in turn by the Leader of the Opposition, the Duke of Devonshire, speaking as representative of the Dissentient Liberals, and by Lord James of Hereford recalling the private memories of former days. All was admirably done, a worthy chorus to such a fame. Last of all came Lord Rosebery, walking up to the table from the bench below the gangway, where he now sits in token of that renunciation of official life and ministerial ambition over which the world ponders. Those who spoke before him—political adversary, faithful colleague, old familiar friend—dwelt, with the natural oratory born of genuine feeling, on the dead statesman's eloquence, his mighty work, the simplicity yet sublimity of his life. It was left for Lord Rosebery to make allusion to "the pathetic figure" seated by the coffin in the darkened room at Hawarden, "who for sixty years shared all the sorrows and joys of Mr. Gladstone's life; . . who shared his triumphs with him and cheered him under his defeats." I fancy that, in all the speeches made on that day, whether in Lords or Commons, this simple reference to Mrs. Gladstone more deeply touched the public than anything else said.

As is his custom, Lord Rosebery delivered this particular speech with but slight assistance from the few notes he laid before him on

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the table of the House of Lords. In oratory, as in other arts, perfection is reached when effort is successfully concealed. Mr. Gladstone was one of the few statesmen of recent times who were absolutely indifferent to opportunity for preparation of their speeches. In fact, in the House of Commons he was often at his very best when quite unexpectedly dragged into debate without a note of preparation. Doubtless, Lord Rosebery is not altogether guiltless of preparing in advance the sparkling impromptus he flashes through his speeches, whether on the political platform or in the lighter entertainment of after-dinner oratory. Gifted with a remarkably well-trained memory, he is spared the dead-weight of notes which burdens Sir William Harcourt when, on great occasions, he addresses the House of Commons, pouring forth a wealth of epigram carrying with it unmistakable and fatal perfume of the New Forest, whose quiet glades lie contiguous to his country home at Malwood. If, as a matter of precaution and in token of respect for his audience, Lord Rosebery does frame in advance the main structure of his speech, he quickly seizes occasions to show that he is not dependent upon the equivalent to the midnight lamp for inspiration. Many of the best things in his speeches are flashed forth either in retort to interruption from a voice in the crowd or in passing reply to a speaker who has preceded him. Other natural gifts which he has, conducive to success in oratory, are a pleasing presence, a far-reaching, melodious voice, and an effective delivery. He is one of perhaps half a dozen members of the House of Lords who can, without visible effort, make themselves heard throughout a chamber singularly ill-fashioned in respect of acoustic properties. During the Midlothian campaigns I have heard him follow Mr. Gladstone in the effort to make his voice travel across the wide sea of upturned faces clustered round the platforms on which the awakened recluse of Hawarden thundered against Disraeli and all his works. Lord Rosebery was second only to Mr. Gladstone in an attempt which would have foiled the majority of practised public speakers.

The other circumstance alluded to as adversely affecting Lord Rosebery's career was that which compelled his acceptance of the Premiership in immediate succession to Mr. Gladstone. It is commonly believed that this arrangement followed on the initiative of Mr. Gladstone. If this were true, it would naturally aggravate the resentment Sir William Harcourt was not careful to conceal. I have no personal knowledge of Lord Rosebery's desires or inclinations at this critical period. But I have good reason to know that it was not Mr. Glad-

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stone, but the Queen herself, who brought about an order of things that quite undesignedly wrought evil consequences to the Liberal Party. The popular tendency to see Mr. Gladstone's handiwork in the matter is born of a speech he made during one of the Midlothian campaigns, which was construed as nominating his host of the day his successor in the Premiership. Mr. Gladstone doubtless saw the inevitableness of the event. It did not necessarily follow from what he said that he contemplated immediate succession. It was the Queen who, on receiving final intimation of Mr. Gladstone's retirement from office, exercised her undoubted prerogative, and called Lord Rosebery to the vacant place of the First Minister of the Crown.

Amongst Mr. Gladstone's colleagues in the Cabinet there was highly favored another disposition of offices that would have worked admirably. It would certainly have prevented the start of the rivulet which, in course of time broadening to an angry river, led, first, to Lord Rosebery's retirement from official connection with the Liberal Party, next, to the secession of Sir William Harcourt and Mr. John Morley. The proposal was to make Lord Spencer Prime Minister,—a well-merited reward of faithful and conspicuous service to the Party. Lord Rosebery was designated to preside at the Foreign Office ; Sir William Harcourt, to serve as Home Secretary, with the lead of the House of Commons. Had that scheme been carried out, there would have been no Death Duties Budget, nor means provided for a Unionist Government to subsidize landlords and Church schools, and to play Nap with Continental Powers in the matter of the Army and Navy. But Downing Street would have been a quieter place of residence in 1894–95. There would have been no occasion to clutch at a snap vote in the House of Commons as an excuse for ending an intolerable state of affairs by a Dissolution ; and when, in the ordinary course of time, a general election became inevitable, the Liberal Party would have been led to battle under firm and united generalship.

It is, however, of little avail discussing what might have been. Of more importance is the question, What part will Lord Rosebery play when, some time within the next two years, the country will once more be called upon to declare its preference between two great political parties? Will he be disposed to come forward as a candidate for the Liberal Premiership? If he be, will he be accepted with the unanimity and heartiness in the ranks that can alone make leadership successful? Lord Rosebery is almost effusively ready to answer in advance the first question. He has exiled himself from the Front Op-

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position Bench in the House of Lords. He ostentatiously avoids participation in political gatherings. If he be drawn on to the skirts of one, he never omits to preface his remarks with the reminder that he is a statesman retired from business, that he has washed his hands of politics, and that upon any burning question of the hour neither Trojan nor Tyrian must expect counsel, support, or criticism from him. All the same, his speech, reported in full in the papers the next day, concentrates upon it the attention of the political world, and is made the text of innumerable leading articles.

That is a significant and enviable position for a statesman to fill. It answers the question whether Lord Rosebery's return to active public life would be welcomed by the Liberal Party, almost suggesting that such return is indispensable. It is a truism that no public speaker, whether in office or on the Opposition Benches, has more influence in moving and in moulding public opinion than has our retired statesman. The uniqueness of the position is attested by the fact that he is scarcely less influential in the Unionist camp than he is among his own people. In the spring of last year, when, according to the expressed opinion of his followers, Lord Salisbury was muddling matters in the Far East, it is scarcely exaggeration to say that Lord Rosebery held the fate of the Ministry in the palm of his hand. Had he emerged from his retirement, taken his place in the House of Lords, and pegged away at Lord Salisbury's foreign policy, as twenty years earlier Mr. Gladstone hammered at Lord Beaconsfield's, he might not perhaps have turned the Government out, but they would have been saved only by altering their policy in accordance with his views. It is no secret, that, at the time, Lord Rosebery was approached by various influential sections of the Liberal Party, and besought to emerge from his tent and declare himself on Lord Salisbury's policy, of late crowned by the acquisition by Russia of Talien-wan. He clung tenaciously to his policy of silence ; and Lord Salisbury lived to acquire Wei-hai-wei.

In spite of his vow of silence, Lord Rosebery has of late been less reticent on home politics ; though here he has avoided particulars, reserving himself for declarations of large principles which, closely examined, have all the harmlessness of truisms. Yet one of these drew upon him a storm of indignant denunciation from the statesman with whom, it is always pleasant to reflect, he once served as Under-Secretary at the Home Office. Speaking at a meeting of the City Liberal Club, Lord Rosebery took the liberty of remarking that, till the world saw again a United Liberal Party such as made Mr. Gladstone invin-

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cible in 1885, there would be no chance of defeating and keeping under the common enemy. Dining a day or two later at a private gathering of Welsh Members, Sir William Harcourt disturbed the serenity of the meeting by attributing to Lord Rosebery the intention of abandoning and, where necessary, undoing all the work accomplished or attempted by Mr. Gladstone since 1886. To the more commonplace mind it would seem as if the affirmation was open to criticism chiefly on the ground that it is of the unemotional, because incontrovertible, character of the assertion that two and two make four. It is not the first time Lord Rosebery has set forth an obvious truth and has found it unexpectedly explosive. In an early week of his Premiership, discussing the prospects of Home Rule, he admitted that they were hopeless until the predominant partner should be convinced of the soundness and safety of the policy. He went on to draw the moral, that the duty nearest at hand to Home Rulers was to convert the predominant partner—that is, the British elector. This argument was not only unanswerable: its utterance was timely; following close upon the failure of the mighty effort made by Mr. Gladstone, loyally and unselfishly backed by the Liberal Party, to carry Home Rule in the teeth of the House of Lords. The storm of obloquy and reproach that straightway burst upon the astounded head of the Premier led him to the uncharacteristic weakness of attempting to explain away his happy phrase. It lives to this day, has passed into the currency of political talk and writing, and there is no one to question its accurate summing up of the situation.

These passing evidences of Lord Rosebery's dominant position in the political world—whose very existence he amuses himself by ignoring—go some way toward answering the question whether, if he pleased to come back, he would be welcomed with outstretched hands. Apart from the weight of his counsel on public questions, he enjoys personal popularity of wider range even than that which cheered Mr. Gladstone in the prime of his days. Whilst Mr. Gladstone always, or nearly always, had the masses with him, he found the classes stubbornly, even viciously, hostile. From time to time, records leap to light confirming the popular belief that it was only upon compulsion, such as that which prevailed after the general election of 1880, that the Queen could be induced to accept his services as First Minister of the Crown. Lord Rosebery, as we have seen, is specially acceptable to Her Majesty: London Society, which could never "abear" Mr. Gladstone, pays him court. As for the masses, the occasion of the wedding of

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his daughter in May last led to an ebullition of enthusiasm the like of which has never been seen on the way between Westminster Abbey and Berkeley Square. It is to Lord Rosebery's greater credit that this popularity began at home and by no means ends there. I had the good fortune to accompany Mr. Gladstone throughout all but one of his epoch-making Midlothian campaigns, and had many opportunities of seeing Lord Rosebery among his own people. Sometimes it was difficult to decide which of the two statesmen Scotchmen more delighted to honor—the candidate for Midlothian or the Lord of Dalmeny. After some experience, Lord Rosebery, shrinking from even the appearance of coming in competition for public favor with his illustrious guest, abstained from attending any of the public meetings held in his neighborhood.

Whilst he holds this position in the minds and the hearts of the people at home, he stands equally high among statesmen abroad. Firm without being bumptious, courteous without suspicion of tendency to cringing, his tenancy of the Foreign Office was one of the surest guarantees of peace. Whilst he was yet an Under-Secretary, or at most Lord Privy Seal, that shrewd judge of men, Prince Bismarck, marked him out for especial favor. As Bismarck recognized the painted lath under the delusive appearance of the steel brand, he also knew the true metal when he touched it.

There remains one not unsubstantial obstacle to that unanimous recall to power which it is understood is the only incantation that could move Lord Rosebery to reconsider his avowed resolve to go on cultivating his roses at The Durdans and at Dalmeny. Undoubtedly, there is a rooted objection on the part of a militant section of the Liberal Party to the Prime Minister being seated in the House of Lords. Experience accumulating during Lord Salisbury's tenure of office has not had the effect of undermining the conviction that such an arrangement is radically wrong. Wise men are prepared to accept a compromise, with the object of obtaining the greatest possible amount of good out of the only circumstances at hand. There are many wise men among the Liberal Party. But in this particular regard monotony has been providentially avoided. As Mr. Gladstone more than once discovered during his long career of leadership, there is a stubborn objection amongst good Liberals, more especially marked in the Radical section, to sear their conscience by compromising with an evil thing. An evil thing is, of course, a matter of opinion upon which other people differ from us. As has been shown in many Tea-room cabals,

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from the time of the Irish University Bill in 1873 down to the revolt of the Welsh Members weakening Mr. Gladstone's poor majority of 40 in the Parliament of 1892, a good Radical will rather sacrifice the whole of his party than concede a segment of one of his own convictions. If the affairs of the Liberal fortress be not conducted in exact accordance with his views, he is quite prepared either to blow it up or, by deserting his post on the ramparts, to let the enemy in. Whilst ready to admit that Lord Rosebery is unimpeachable as a Liberal, irreproachable, unapproachable in the matter of fitness for the Premiership, there are impeccable Radicals who will not accept his leadership because it must needs be carried on from the House of Lords, when it would unquestionably be much better if he sat in the House of Commons. This is a class which is, perhaps, diminishing in numbers, in view of the parlous state of a party which, strong in the body, as successive by-elections show, is hopelessly enfeebled in the head—or, to be precise, in the place where the head ought to be. Nevertheless, it will have to be counted with when the next general election is in sight.

One other danger lurking round Lord Rosebery's pathway to the Premiership is, that he may too long maintain the attitude of aloofness which up to now has admirably served. He who will not when he may sometimes finds he cannot when he would. One night of the present session Mr. Gibson Bowles, forcing a division in Committee of Ways and Means, found himself leading a single follower out of the lobby. Meeting him riding in the Park next morning, Lord Rosebery said, "I congratulate you on your party of One. It is one more than mine." That was very witty. But there are some prizes in life worth more than the success of a jest. Lord Rosebery, if he really means business, is too wise a man to miss the opportunity of clenching it.

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THE TRUST PROBLEM AND ITS SOLUTION.

TRUSTS, being formed for the purpose of securing business by suppressing competition, violate what is regarded by Americans as one of the inalienable rights of men; viz., the right to compete with their fellow-men in trade. This point was brought out very clearly in the opinion of the Supreme Court of the United States delivered in November last in a case against the Joint Traffic Association, a body organized "to establish and maintain reasonable and just rates, fares, and regulations on State and interstate traffic." The Court sustained the Government's contention that this kind of an agreement is equivalent to a combination to prevent competition in the carrying business, and is, therefore, a contract in restraint of trade or commerce, and is in violation of the Anti-Trust Law.[1]

It is agreed on all hands that rates, fares, and regulations in the transportation business ought to be reasonable and just; and it would seem that an agreement among carriers to establish and maintain such ought not to be unlawful. But the Court assumed the existence of a "general law of competition," which requires that trade and commerce must be left free and open always and everywhere for all persons to enter at will; and it was held that Congress has the power to declare that any contract or combination which restrains trade or commerce is illegal, as it prevents the operation of this general law.

The Court went further, and assumed that the people at large are entitled to the use and enjoyment of any and all benefits resulting from the fullest freedom of competition in the matter of public transportation. The natural, direct, and immediate effect of competition, the Court said, is to lower rates and thereby to increase the demand for commodities, the supplying of which increases commerce; and that an agreement whose first and direct effect is to

[1] Section 1 of the Sherman Anti-Trust Law reads as follows:

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal."

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prevent this play of competition restrains, instead of promoting, trade and commerce.

So important in commercial affairs is this general law of competition that the Court felt bound to uphold it even at possible great risk to competitors :—

"An agreement of the nature of this one, which directly and effectually stifles competition, must be regarded under the statute as in restraint of trade, notwithstanding that competition may be indulged in until the weaker roads are completely destroyed and the survivor thereafter raises rates and maintains them."

This declaration, that competition, even though it be so fierce as to destroy the weaker competitors, must be recognized and upheld as the law of the land, is unquestionably correct. The courts have always and uniformly so held : there is no exception. The right of competition involves life, liberty, and the pursuit of happiness ; and it must be maintained : it includes the individual's right to choose his employer or employee, to engage in any lawful occupation, and to conduct his business in his own way in accordance with the law. Every man has a right to himself, to his business, and to his earnings.

The principle involved in the opposition of labor unions to the competition of cheap workmen is the same as that upon which railway managers base their arguments against the unrestrained competition of roads which underbid for business. The original interstate law was enacted to prevent unreasonable charges and unjust discriminations on the part of railroad companies. From time to time many expedients have been devised by the carriers to evade what seemed to them the harsher restrictions of the law ; and they have asked for modifications of the Interstate Commerce Commission's rulings. Several times they have appealed to Congress for the repeal of at least so much of the Act to Regulate Commerce as prohibits pooling, and to grant authority for such joint action by the carriers as would prevent destructive competition and would insure the maintenance of reasonable and just rates. Such authority as the companies thought they ought to have by law, they agreed to assume and enforce among themselves without law ; for, as they contended before the courts,

"the only resort open to railroads to save themselves from ruinous competition is that of agreements among themselves to check and control it."

It is easy to see what would have followed a judgment favorable to the railroads in this case of the Joint Traffic Association. In a short time the carrying trade of the country would have been in the

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hands of half a dozen strong men who, while they might not have gone to the full extent of their power, would at least have fixed rates high enough to afford dividends of 6 to 8 per cent annually on the stock of the companies, and to pay, in addition, the interest on their funded debt, which amounts to more than half the capitalization of the roads. This, as a business transaction, would be on all fours with the building of a $5,000 house, borrowing $5,000 on it, and then leasing it at a rental that would pay interest on $10,000.

The tendency of present business methods is toward combinations against the competition of low wages and low prices. In nearly all the leading manufacturing industries trusts are now operating; and their number is steadily increasing. Even the farmers are invited to combine in order that they may regulate the prices of grain, cotton, hay, and other products of the farm. The number of trusts operating in the United States at the close of the year 1897, according to "The World Almanac," was 111, including the Joint Traffic Association, whose capital is estimated at $1,404,130,581. The Reading Coal Company is capitalized at $150,000,000; the Western Union Telegraph Company, at $95,370,000; the American Sugar Refining Company, at $73,936,000; the Standard Oil Company's capital is put at $97,500,000; the Wholesale Grocers' Association of New England, $75,000,000; the Central Lumber Company, $70,000,000; the United States Leather Company, $62,711,100; the Chicago and Milwaukee Brewers' Association, $60,000,000; the New England Insurance Exchange (84 fire insurance companies), $58,537,167; the Steel Rail Association, $50,000,000; the Chemical (Pharmaceutical Manufacturers') Combine, $50,000,000; the Carnegie Steel Company, Limited, $35,000,000; the Consolidated Gas Company, of New York, $35,430,060; and so on down. There are only three concerns whose capital is reported at less than $1,000,000 each.

The New York "Herald," a few months ago, called attention to some later organizations, among them one proposed by the great flour-mills, with a capital of $150,000,000; the Knit Goods Company, $30,000,000; and the Thread Company, $18,000,000. The Federal Steel Company was recently incorporated in New Jersey, with a capital of $200,000,000. The number of trusts organized during the year 1898 is put at 98, with capital amounting to nearly $2,000,000,000.

The aggregate capital of all the trusts in this country to-day,

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including combinations of "two or more concerns, which practically establish a partial or complete monopoly, with power to fix prices or rates in any industry," cannot be much less than $5,000,000,000. This is equal to one-fifth of the assessed valuation of all the taxable property of the people of the United States at the time of the last Census.

Where is this policy leading us, and where will it end? Are we to have the prices of everything we buy regulated, not honestly by fair and open competition in the public market, but arbitrarily and dishonestly by managers of colossal combinations in control of trade? These questions are as important as they are timely; for the people are as much entitled to sugar, salt, flour, oil, lumber, shoes, and nails at reasonable and natural prices as they are to transportation of their property over the railroads without being required to pay exorbitant or unreasonable charges for the service. If carriers must render their service for reasonable compensation, why not the sugar-makers? Are not the rights, duties, and responsibilities of the Government and the people the same in both cases?

This brings us to consider what interest the people, either as individuals or as a community, have in the industries of the country, and whether the right of competition among producers does not imply a corresponding right among consumers to be dealt with justly in all commercial transactions.

The subject must be treated broadly and on high ground. We must take the whole great world into the account. I am my brother's keeper in a much larger sense than most persons have yet realized. Brotherhood is working itself out through the cold forms of selfish business. The individual workman has been merged in the mass. Individual competition is no longer generally practicable. The people are at work, not for themselves personally, but for one another. The shoemaker once made shoes; and the wagon-maker made wagons. Now, these necessary articles are simply "put together"; their several parts having been made separately by machinery in great factories by as many different persons. And these persons do not—they cannot—use in their daily living any one of the things they make in the shops, because they each make not a whole thing but only a part of a thing, which part, alone, is utterly worthless. Everything these workmen use in their homes or elsewhere at any time was made by somebody else at some other place.

With respect to the world's work, the various departments and

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divisions and subdivisions of industry are like wheels in machinery and cogs in wheels—all are parts of a great whole.

We are all consumers of the things which the workers are producing for us,—things which the carriers are bringing to the trade-centres for our use and which the merchants are distributing to us at our homes. Imagine, if you can, what would happen if communication were stopped, and the cities and towns cut off from the outside world. In such a case even the farmer, who once supplied himself with about all he needed, would be in peril. Stop but for thirty days the flow of the world's life-blood through the arteries of trade, and business would be everywhere paralyzed, and millions of people dead or dying from starvation. Let any one look over his dinner-table, when it is spread, and take note of the things he sees there and of the places of their production, the means employed in their transportation to his residence, and the many persons engaged in making up the history of the things used and consumed in a family meal. And if any man would see for himself what a small figure he cuts in the world's movements, let him catalogue every article which he uses about his person or premises, and then check off all that he himself did not make.

Out of what we pay for the things we use, all the producers of the earth, all the carriers, and all the distributers procure their livelihood; hence, we are one and all in a very large sense dependent on one another, and are of necessity very much interested in what other people are doing, how they are doing it, and how much it costs us.

And, further, when deciding the case of the Joint Traffic Association, the Court said, in passing, that

"the business of a railroad carrier is of a public nature; and, in performing it, the carrier is also performing to a certain extent a function of government, which requires him to perform the service upon equal terms to all."

What is it that gives to transportation its public character, when the carrier is a private citizen (or a corporation), when he has bought and paid for the use of the right of way, when he owns all the property used in his business, and private persons own all the property he carries? Why is the common country road a public highway, when every vehicle that passes over it, together with the property it carries, and every animal driven on it, is private property in which the public has no interest?

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As well, almost, might we ask what imparts to government itself its public character, or, for that matter, why is government necessary. A people organized is an individual entity, with rights, responsibilities, and duties of its own. Government maintains order; and through its instrumentalities, and by the exercise of its functions, all the people thus organized guarantee, protect, and defend the personal rights and privileges of the people individually, among which personal rights of individuals is the right to exchange the products of one's labor with his fellows. Exchange of property is "trade or commerce"; but it would create endless confusion and strife if the people, when taking their surplus products to market, were to pass promiscuously over their neighbors' possessions. So, the common good and the public peace require that roads be opened and maintained at convenient distances apart, to the end that the people may conduct their movements in an orderly and peaceable way.

The country road is a public highway; but the business done over it is not public business, because the property carried on it belongs to the persons who temporarily have charge of it, or to their employers near by. The railroad is an improved highway, so the courts hold; but the property carried over it belongs to persons in all parts of the country or of the world. The railway companies are engaged in the business of carrying merchandise for the people generally—for all the people without distinction. Any person, if he deliver his goods at the proper time and place, and pay the usual charges, may demand of any common carrier prompt and safe transportation of the property. But the farmer or freighter who carries goods on his own vehicle and only for himself, or for a particular person, is not a common or public carrier, and is not charged with the performance of any public functions in that behalf.

The distinction between private and public functions is perceived when we reflect that, in the one case, the work, whatever it is, is done by a private person for and in the interest of some one or more particular persons; while, in the other case, the service is performed by a public agent for the people at large without distinction—for the public, if you please.

But is transportation all there is of commerce? Is there nothing else of a public nature connected with or necessarily related to the business of railroad transportation? Are not production and

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preparation for market, selling, buying, and delivering, necessarily included in the general business of "trade or commerce"?

Webster's "International Dictionary" defines commerce to be: "The exchange or buying and selling of commodities; especially the exchange of merchandise, on a large scale, between different places or communities; extended trade or traffic."

When the iron-manufacturers of Pennsylvania and Alabama ship their iron and steel wares to Kansas, where they are to deliver them under contract of sale, are they not engaged in interstate commerce? And if they, with or without others, combine, in the form of a trust or otherwise, to "smother competition" and thus maintain prices to suit themselves, are they not liable under the provisions of the Anti-Trust Law, as those provisions are construed and applied by the Court in the decision against the Joint Traffic Association? Iron in its multitudinous forms is a necessary article; it is in use everywhere; and it is often carried thousands of miles from the factory to the place where it is to be used. In not one case in ten thousand, probably, does the carrier own any interest in the iron which he transports. Is he, then, so far as this particular iron is concerned, the only person engaged in interstate commerce? Has Congress, therefore, no jurisdiction over the Nail Trust, the Wire Trust, or the Steel Rail Trust? If it be adjudged that the manufacturers of this iron are as much engaged in commerce as the carrier of it,—and it is difficult to see how such judgment is to be avoided when the test is made,—then the business of these iron-manufacturers is of a "public nature," and in making the iron they are "to a certain extent exercising a function of government, which requires them to perform the service on equal terms to all."

Railroading was once a purely private matter—when the business was limited to the output of a stone-quarry or a coal-mine. But when it became a carrying agency for the people—the public—then it became a matter of public concern.

When a farmer in Vermont, Indiana, or Michigan makes a few hundred pounds of sugar out of his maple-trees for his own family use, that is his private business; but when a great combination is formed to buy raw sugars in unlimited quantities and refine them, when a thousand shiploads of the crude article come to its place of business every year from foreign shores, and when this sugar trust undertakes to control and does control the price of sugar all over the country,—levying tribute at will on the consumers of sugar

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everywhere,—is not that a public matter? Are not the people entitled not only to equal treatment, but to fair and just treatment at the hands of this gigantic trade-machine? and if the trust, having got control of the sugar business, will not deal fairly with its patrons, the people, is not that fact of sufficient public interest to justify Congressional interference to whatever extent may be necessary to secure sugar for the people at a fair price? Has not Congress already assumed jurisdiction of the case by the enactment of the Anti-Trust Law?

The decision in the Joint Traffic Association case opens a limitless field. Where shall we locate the line between private and public functions in respect to the commerce of the country or of the world? Where is the citizen to be relieved and the officer to take up the work? When does a private act become a public duty, and what reason is there for the change?

The right of the public to regulate all functions and franchises intended to serve the people is inherent. When men get to looking deeper into the life of the social body; when they have a clearer understanding of the relations they bear to one another and to all, so that they will be better equipped for determining what they owe the community and what the community owes them; when they realize the magnitude of the tribute they pay to these despots of trade; and when they comprehend the nature and extent of the trusts' influence in private and public affairs, they will surely seek and find a remedy.

If it be said that the Constitution of the United States does not authorize Congress to regulate manufacturing industries, the discussion of the subject may be postponed until it becomes a practical question, and that will not be very long, probably. Blackstone has taught us that for every wrong there is a remedy; and if the Trust monopoly be wrong in itself and an offence against the people, the power to control it or to get rid of it exists somewhere—if not in Congress, then in the State legislatures.

That the trusts have no respect for laws or law-makers is evident from the fact, that, in the face of law and public opinion, the oldest and most formidable of them, instead of yielding, are strengthening themselves continually by every device which professional ingenuity can invent; and new combinations are reported almost daily. The utter disregard of law, and attempted regulation, on the part of railway companies is set forth in the last Annual Report of the

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Interstate Commerce Commission, recently published. The Commissioners say that railway business is carried on largely in admitted violation of the law; that

"enormous sums are spent in purchasing business, and secret rates are accorded far below the standard of published charges; . . . tariffs are disregarded; discriminations constantly occur; the price at which transportation can be obtained is fluctuating and uncertain; . . . shippers are all the while in doubt as to the rates secured by their competitors; . . . a large part of the railway business is transacted upon illegal rates; . . . in certain quarters charging the published rate is the exception."

Obstacles between the people and the trusts are numerous and formidable. While corporations, as such, cannot legally combine to raise or regulate prices, the members (stockholders) of corporations, as individual persons, are competent to associate themselves for the same purpose and to accomplish the same object. In that way they may in regular trust fashion buy out, or force out of business in some other way, all the smaller concerns. They need not—and of course would not—say in their articles of association that their object is to suppress competition and thus to get control of prices. They need only say that the association is formed for the purpose of manufacturing, refining, and dealing in sugar; of carrying persons and property by railway, canal, or river; or of mining, transporting, and selling coal, etc. But, in the very nature of the case, the work of crushing competition, displacing labor, and manipulating the market, would go steadily on without anybody being able to prove in court that that was the leading object of the company.

If the owners of the principal railway systems of the United States should avail themselves of the liberal legislation of New Jersey, and procure a charter there to carry on the business of transportation in the States and Territories of the Union, and then should buy out the weak roads, and in that way get control of the whole carrying trade of the country, and perform the service as well as it had been done, without discrimination, and at rates that were adjudged reasonable under the old *régime*, they would be within the law. And so it would be in the case of any similar association for any other purpose. Once fully in control, how are they to be prevented from raising rates and maintaining them?

But what concerns the people most is not the right to organize commercial bodies to carry on business. The great question with them is how to prevent these associations from raising prices above a normal level and thus establishing a system of private taxation.

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The equitable doctrine of "quantum meruit," as applied to services rendered, is equally applicable to the price of goods delivered,—what are they reasonably worth? A manufacturing trust has no better or more lawful right to charge purchasers more than its wares are worth than a railway company has to charge for transportation more than the service is worth. The principle involved is the same in both cases; and, when once fully recognized by the people, and authoritatively stated by the courts, it will be very helpful in the solution of the Trust problem. If manufacturers may combine and fix their own prices, so may carriers unite in traffic agreements and make and maintain their own rates, whether inside or outside the law.

As to railway combinations, there appears to be but one final and complete remedy. If the roads were not so largely in debt, they might be brought into one system under Government surveillance without necessarily affecting present ownership. In that way uniform rates might be maintained throughout the entire country, and all differentials could be adjusted in one office. This policy could be adopted, notwithstanding the enormous indebtedness of the companies; but it would not be permanent because of the injustice of taxing the traffic to pay the carriers' debts.

The beginning of the final remedy for railway trusts is suggested in the late Report of the United States Commissioner of Railroads, Gen. Longstreet. The Supreme Court has decided that a railroad is a public highway, an improved highway; that the business of railway transportation is of a public nature; and that, in performing it, the carrier is, to a certain extent, performing a function of government. Now, let Congress act on Gen. Longstreet's recommendation and begin by providing for the early construction of a national freight railroad with double tracks from St. Louis to San Francisco, and follow that immediately with three others like it—one from Chicago, by way of St. Louis, to Galveston, Texas; another from Jamestown or Bismarck, North Dakota, by way of St. Louis, to Savannah, Georgia; and a third from St. Louis to New York city. The aggregate length of these several lines would not exceed 5,500 miles; and the roads could be built and equipped for about $250,000,000. This amount could—if it were deemed necessary, rather than to issue Treasury-notes—all be borrowed from our own people on 2½ per cent 50-year bonds; and long before these bonds had matured, the net earnings of the roads would have raised a sinking fund large enough to pay them. Afterward, rates could

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be reduced accordingly; or the income of the roads could be turned into the Treasury as public revenues. There would be no dividends to be paid to stockholders, no fixed charges for bondholders, no extravagant salaries to officers, and no campaign contributions to political committees. Nor would there be any need of the services of a corps of high-priced lawyers.

These roads, in the beginning, need carry nothing but freight and the heavier classes of mail matter ; they should be supplied with motive power sufficient to haul not only Government cars, but those of all persons or companies applying for transportation ; and the employees should be protected from political intermeddling by a tenure dependent only on efficient and faithful service.

This would be the first step in the solution of the Trust problem, so far as the railways are concerned. What would follow in that direction would depend largely on how the railroad people felt by that time.

A remedy of this character could not be so readily applied in the cases of monopolies engaged in the productive industries, even if the public mind should be prepared for anything of the kind by discussion or judicial determination ; for our industries are so diversified that any general supervision of them would be attended with a great deal of detailed labor. Transportation is one and the same thing in all parts of the country; and its relations to the people have been adjudicated. A change from present methods to the public management of railroads would occasion no more friction than such things do in time of war. A Government railway from St. Louis to San Francisco could now be constructed with as little commotion in public opinion as would result from building the proposed connection between Havana and Santiago in Cuba.

Having thus commenced the attack on the Trust question, we could then apply ourselves to further study, with the view of successfully dealing with the other great institutions now menacing our commercial peace, and of entering on a crusade against them as soon as the courts should have opened the way by declaring the law and the public rights under it.

W. A. PEFFER.

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THE WHITE RACE AND THE TROPICS.

It is strange that, in an age of progress and in a nation which more than any other represents progress, the subject of Expansion has been looked upon solely from a static, not from a dynamic, point of view.

The justification for our recent annexations depends upon the question, Can the white race *ever* colonize the tropics? The Anti-Expansionists have answered it in the negative; and they have been sustained in that opinion by Mr. Benjamin Kidd, perhaps the best known of all the writers on this subject. The assertion of Mr. Kidd, that the white race can never colonize the tropics, supported as it has been by many prominent Anti-Expansionists, is becoming so widely accepted that, in vindication of our present policy, it should not remain unanswered.

By asserting that the progressive races can never colonize the tropics, the Anti-Expansionists are denying that progress itself exists. One phase of progress lies in overcoming the dangers of environment. The skin canoe of the savage sails at the mercy of every wind and wave, while the huge ocean steamers of progressive man plough through every sea with hardly any danger from the elements. A herd of cattle, left to itself in the environs of Ottawa, and overtaken by a winter of unusual severity, would almost entirely perish; but civilized man in those surroundings can so defend himself against such periods of severity that he will suffer little inconvenience from them. As nations advance they become more and more independent of environment.

The evil effects of hot climates upon the white race are being rapidly conquered by science. Indeed, even with our present imperfect knowledge, a colony of our own planted upon the Isthmus of Darien to-day would not be annihilated by the climate as was the Scotch colony placed there in 1698; and, with the rapid advance of sanitary science, it is probable that twenty-five years hence an American farmer will be able to cultivate land in the tropics with less danger to his health than was encountered by his father in ploughing the

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Valley of the Wabash or the semi-tropical valleys of California a quarter of a century ago.

Mr. Kidd points out that the temperate zones are rapidly being filled up by the white race, and that the richest and most productive part of this planet is in the tropics. Our conclusion from these statements is, that the necessary trend of the white race, in its geographical expansion and distribution, will be toward the tropics; and with the necessity will come the means.

The answer to Mr. Kidd's claim, that India has been made habitable only for an official class, is, that as yet there has never been any necessity to make it so for any other class. The Chinese, driven forth by the pressure of their dense population, have succeeded in living and prospering in great numbers in all climates, from those of arctic severity on the borders of Siberia to the torrid rice-swamps of Java and Sumatra. Is it not probable that, with science at our command, we shall be able to solve the same problem of life even more successfully?

Let us now glance at some of the recent achievements of science which are destined in time to enable the white race to inhabit the tropics. My own experience and observation in such countries lead me to conclude that hard labor and overexertion, by lowering man's vitality and lessening his resisting powers, in some way make him very susceptible to tropical fevers. Many of the simplest mechanical inventions of recent years have contributed enormously to lighten the labor of the agriculturist in the fields. Instead of trudging laboriously down a rough furrow after a plough, he now sits at ease upon the seat of a rotary plough, which turns over the earth with far less exertion, both to horses and man, than the old wedge-plough. The old-fashioned method of seeding the land, which required a man to carry the heavy seed-bag in front of him, to walk laboriously down the rough furrow, and to throw out the seed with either hand, has been superseded by the modern seeder, in which the distribution of the seed is accomplished by the power generated by the revolving wheel of the wagon; leaving to the man no more heavy work than the guidance of his team from the wagon-seat. Steam ploughs and steam thrashers lighten labor to a similar extent; leaving but little for the laborer to do beyond the intelligent direction of his implements. The combined harvester now does everything on the harvest-field except the very light work of sewing up the grain-sacks. These and other mechanical contrivances, from improved hats to

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better modes of draining and construction of houses,—so important to life in the tropics,—combine to make hot countries more habitable.

Further, as we arrive at a more accurate knowledge of the germs that cause the various fevers in the tropics, the old methods of prevention and treatment will be superseded by others tending to minimize the dangers of these scourges of tropical countries.

For instance, only a century ago small-pox was as great a scourge in the temperate zones as tropical fevers are to-day in the tropics; yet science has reduced that evil to relative insignificance.

The science of reducing the temperature of rooms and buildings is still in its infancy; yet a Government arsenal already exists in Marseilles,—that hottest of European cities,—where the temperature is so reduced, by artificial means, that artisans can work there with comfort during the hottest months. Chemistry has so reduced the cost of artificial ice that it is now frequently used in preference to the natural product. The utilization of liquid air for cooling purposes will be more effective than anything else hitherto discovered, as it will make the air in rooms not only cool, but as pure as the most bracing mountain air. Much may also be expected from the recent establishment in London of the School of Tropical Medicine. In fact, science will eventually harmonize our life with tropical environments—aside from the physiological adaptation, direct and indirect, that will ensue when the pressure of population forces us to inhabit the tropics.

In a word, we may reasonably expect that the time will come when the agriculturist will be able to cultivate the rich and productive tropics with less danger to health than is encountered by those who now labor in our semi-tropical regions, or even in our temperate zones during the summer months.

The human species took its rise in the tropics. The spells of longing for Southern climes, so common to most of us, the pleasure we all derive from tropical landscapes, and the survival in us of many other such ancestral traits, show that we have not yet become entirely unadapted to them. In our wanderings in the temperate zone, we have found the mine of modern science; and, with the vast accumulations we have made from it, we can now return to and rehabilitate the old home.

TRUXTUN BEALE.

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WAS COLUMBUS MORALLY IRRESPONSIBLE?

To the deuce with all alienists! Such is the general cry of pseudo-thinkers and pseudo-*litterateurs*. They see these alienists chasing ahead with personal and biological, if not literary and scientific, criticism of geniuses, and attacking that *prestige* and fetich-worship which they themselves never concede during the lifetime of their objects (quite otherwise!), but which, after death, they would redouble and centuplicate in inverse ratio to their denial during the period of greatest production. Nor do they spare their imprecations even when the precise and impartial analyses of alienists throw light upon facts which serve to explain anomalies and errors, and thus furnish a valuable instrument of criticism.

Such is the case, for example, with Christopher Columbus. To harmonize the idea of genius with the series of enormous errors of fact which lie at the base of the most fortunate conceptions of the pseudo-critics would be impossible. "Contemporaries, whether learned or unlearned," says De Lollis,[1] "never succeeded in finding a satisfactory reason for the process whereby Columbus arrived at the divination of truth." Even now this would be impossible, save by filling up the void with current hypotheses.

Correnti ("Discorso su Colombo," 1863) declares that neither history nor philosophy has as yet succeeded in worthily portraying Christopher Columbus. Well, the study of psychiatrics as it can be pursued to-day, with the help of new documents, enables us to do so. Here are the facts:

Columbus was the son of a wool-comber, poor, but of an active and scheming brain, who, as appears from documents newly brought to light,[2] was a sort of meddlesome busybody. He was never content to remain in any one place, like the workmen of his time, but was continuously on the move; selling and buying land, sometimes leasing the property so bought to the seller, and sometimes ending by not paying his creditors.

[1] De Lollis, "Cristoforo Colombo nella leggenda e nella storia" (Milan, 1892).
[2] De Lollis, "Vita di Cristoforo Colombo" (Geneva, 1892).

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The son, Christopher Columbus, found no congenial employment in youth. He also began as a wool-comber, and then was a not very fortunate dealer in wines and cheese. In 1470, at the age of twenty-four, he was the captain of a merchant-ship engaged in the wine trade. Later he seems to have turned pirate. He had only such education as a poor member of the working-classes could procure in the public schools of Genoa and Savona—certainly inferior to the modern ones, which are themselves of so little worth. He spent much time on the sea, and learned the trade of sailor. Landing in Portugal after a shipwreck, he turned his attention to the possibilities of marine discovery and to the advantages to be drawn from the hypotheses of Toscanelli, if they were true. He communicated with the latter; and what he thus learned led to the discovery of America.

Anthropological Characteristics.—We possess more than twenty portraits of Columbus; but none is authentic. Such of his traits as we positively know, however, point to degenerate characteristics,—such as precocious grayness, most natural to psychopaths. Las Casas describes him thus: Long of body, aquiline nose, brown eyes, reddish hair early grizzled. In the portrait by Giovio, which seems to be the most reliable, we notice a large upper jaw, the absence of beard, and a retreating forehead. In that so highly prized by Capriolo, we have anomalous wrinkles and large arched eyebrows.

Graphology.—In his calligraphy can be differentiated two types absolutely distinct from each other and different from the style of the epoch. His writing is characteristic of a disturbed mind. The directions of the writing are self-contradictory: now they curve to the right; now they stand upright; and now they curve to the left. The whole is full of dashes and enormous flourishes, all the more significant as the calligraphic style of the period was a sober one in this respect, without either periods or commas.

Insanity of Style.—The continuous repetition of the same letters and the same phrases has been noted. Harrisse points out that in the "Prophecies" seventy-five lines are rhymed. The abuse of rhyme in the writings of paranœics is notorious. But the phenomenon most characteristic of the paranœic may be found in his superscription as he used it from 1494, and which is reproduced on page 539.

This seal is so strange that biographers and paleographers have puzzled over it in vain. Ceradini ("Due globi Mercatores," p. 299) thus essays to explain it: "Savonensis suarum altitudinum servus

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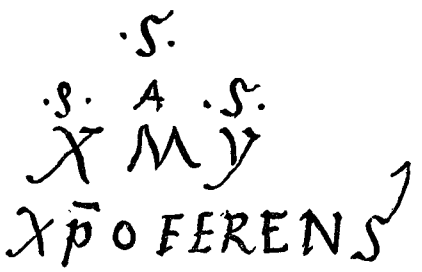
dec. mil. insulas Cristo ferens"; alluding to Columbus as being a Savonese—which is not true—and to his discovery of ten thousand islands that he had brought to Christ, although he himself (who certainly seldom sinned upon the side of modesty) after his second voyage claimed to have discovered seven hundred only. Ceradini assumes that Columbus said "Porto al Cristo le Genti," in which is evident a grammatical error for "Porto Cristo,"—an error easy to one who



had small familiarity with Latin, and one which he might have voluntarily committed, in order to make his real name accord with the mystic and symbolic conceit that he had been destined by Christ for great discoveries, as he sought to prove in his "Prophecies." "Certainly," says Ceradini, "he commenced to use this seal after the discovery." According to Harrisse, it would appear that he had already begun to adopt it in 1494.

Reille ("Columbus und seine vier Reisen," 1892) explains the seal more naturally thus: "Servidor de sus Altezas Sacras Iesus Maria Josephus, Portatore di Cristo." Marguerite ("Navigation française," 1892) suggests this: "Supplex servus altissimus Servatoris Christus Maria Josephus." Ruge looks upon the signature as merely a useless bit of pedantry.

He would be no rash alienist who, instead of seeking for useless interpretations, would accept it as one of the symbolical characters which are the specialties of paranœics, especially when they occupy themselves with their own names, from which they extract auguries which are the beginning of the end.

Among my patients in Pesaro, there was a paranœic and megalomaniac who believed himself Pope, and who used this superscription: "I am Christ, the only Creator and Lord and Patron and Commander of the Holy Spirit and Emperor of Italy, a true native of Senegallia." Another megalomaniac signed himself thus: "Am-

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bassador and Emperor, Director of the railways of the world, Commander and King of the Tramways of Italy, Commander of the Council of Carpenters."

A woman with religious monomania, who believes herself a saint, and who seeks to convert sinners, though she is nothing but a poor chair-maker, signs herself: "Maria Rosalia, unworthy daughter, servant, and cousin of the Great God by Supreme Grace, spiritual Queen of the heaven and of the earth."

It is in this way that I explain how Cola di Rienzi used to sign nothing less than: "Humble Creature, candidate of the Holy Spirit, Nicholas, Severus, and Clement, released from the City, Lover of the World, who kissed the Feet of the Blessed."

Ignorance.—An examination of the manuscripts of Columbus reveals a certain lack of culture. He seems to have read no books until after he was thirty years of age, and then only Plutarch, Pliny, Marco Polo, and the treatises of Peter d'Ailly. These books are constellated with his notes, full of Latin blunders, as, for example, "Aebreos discunt." In another place he jots down: "Quod Tolomeus et omnes astronomos non incipiunt confutare." Of cosmography he knew less than any other contemporaneous cult; but he had some manual skill in map-making. Here, for example, are some of his geographical errors:

He pretended that he had been to Iceland, the Ultima Thule, and to have observed that the southern part of it was distant from the equator 73, and not 63, degrees. Herein he committed an error of $9\frac{1}{2}$ degrees, as the southern coast of the island falls under the northern parallel of $63\frac{1}{2}$ degrees. But probably he was telling a fib, because when afterward, in his log-book, he notes the northern and southern extremities which he had reached, he speaks of England and of Guinea, but never of Iceland. Goodrich ("A History of the Character and Achievements of the So-called Christopher Columbus") denies the possibility of this journey to the North; alleging that Columbus, in his quality of pirate, would have had no reason to tempt the waters of the Atlantic, so much less rich in booty than the Mediterranean, and points out that he makes no mention either of the ship that bore him or of the port whence he sailed,—all which proves that in his very lies he talked at hazard, and without care even for an appearance of the truth. From all this it would appear that Columbus was of unbalanced mind. Thus he wrote "India est in estrema terra in Oriente, in Hispania, cum Etiopia in Occidente—intermedio est mare!" He

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thought that the distance from the Islands of Cape Verde to the extreme Orient, which to him was America, was one of a few hours, about eight.

The literal application, as his was, of Toscanelli's project assumed the possibility (inadmissible at that epoch) that a ship sailing from the coast of Spain could navigate the superficies of the sea until it found itself inverted relatively to its position at the starting-point. This fact is easily explained nowadays, when we understand the laws of gravity: it was impossible to explain it at that time, when these laws were unknown. His own imagination, says De Lollis, led him to accept the plausible as true, and the conclusions of Toscanelli as certain. From the latter he had procured information in Portugal, writing to him in Portuguese; and this he only copied, following it literally, without recognizing the erroneous portions, which had justly aroused incredulity.

Toscanelli had no suspicion that in the tract of sea which separates the western coast of Europe from the eastern coast of Asia a continent intervened. Thus, Columbus believed that he had approached the extremity of India when he reached Cuba. Toscanelli laid down, as the basis of his theory, a mistaken calculation by which the circumference of the earth was much minimized. Hence, he imagined that there was but a small distance to be traversed in going from the East to the West. He had reduced to degrees the coast of China, which figured as a line that cut the meridian of the actual New World. All this Columbus also believed. But none the less,—and this is a much graver offence,—after the journey, he recognized that he had been mistaken; but, pedantically and ignorantly faithful to the lines drawn by Toscanelli, he saw, in the island of Cuba, then poor enough in minerals and spices, only gold and spices, cotton and aloes, and, in the streams up which he navigated, gold.

It was not until 1498 that he began to say that gold must be sought for in mines, and spices in trees. He went so far as to call the River Yachi "River of Gold," on account of a few grains which he had seen, or thought he had seen. On Isabella Island he founded a fort which he called St. Thomas, as a satire against those who obstinately refused to believe in the existence of gold; although, as Michele da Cuneo, a member of the expedition, asserts, not a single grain was ever found.

Even during the second expedition, despite the facts that circumnavigation had almost completely demonstrated the insular character

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of Cuba, that a cosmographer who was on board made a drawing of it, and that the aborigines declared that it was a large island, Columbus not only persisted in believing it a continent, but caused his sailors and officers, under pain of losing a hand, to swear before a notary that it was the mainland. Though it was certain that no gold could be found there, he commanded the natives to furnish a given quantity every month. When one of their chiefs, Guarionex, most sensibly proposed that they should cultivate wheat on territory extending some forty-five leagues, in lieu of being asked for gold which they could not give, he would not accept the offer, though economically it would have proved an excellent equivalent; nor would he surrender his demands, even when he saw the desperate aborigines abandon all agricultural work, in the hope that hunger might drive away the invaders of the soil.

When, during the third expedition, he actually found himself on the mainland, in the neighborhood of the Cape of Ikakos, he assumed that he was on an island, which he called Isola de Gratia, and was not even disillusioned when he saw the mouth of a great river, the Orinoco, which certainly could not debouch from an island. Twice blown by favoring winds toward Mexico, invited and almost constrained by fortune to be a precursor of Cortez, he obstinately refused, and for ten months imperilled the safety of his fleet amid dangerous currents, while the great continent which he would not see lay within easy reach. Even on his last voyage to Costa Rica and Veragua, he had no consciousness of the neighborhood of two great continents, but imagined Central America to be a peninsula of the Asiatic continent, forming a sort of pendant to Cuba.

Many have held, it is true, that in his fourth expedition Columbus was on the scent of the Pacific, when he obstinately sought a passage along the Isthmus of Panama. But this cannot be conceded to him as recognition of a prophetic spirit; for even in this instance he allowed himself to be guided by the false or uncertain data which had accidentally led him to the discovery of America. If he were really seeking for a strait there, where in our days we are striving to make a canal, he probably had in mind the Strait of Katai mentioned by Marco Polo.[1]

For the rest, he always found means to persuade himself of the impossibility of his having discovered a great continent. The large quantity of fresh-water streams which he met with, he explained by

[1] De Lollis, "Revue des Revues," January 15, 1898.

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that passage in the apocryphal Book of Esdras [1] where we read that six parts of the earth were formed into dry land and the seventh part remained water.

Even this did not suffice. He added an absurd hypothesis of his own. To explain the great quantity of fresh water which he found, he supposed that it proceeded from the terrestrial Paradise, whence, according to the Bible, flowed the Tigris, the Nile, etc. Also that the world, instead of being spherical, was conic in shape, with Paradise at the summit of the cone, and that the slope commenced where he was. In fact, in the description to the King of his third journey, he affirms that the world is not round, but pear-shaped, and long-drawn-out at the stem, or like a globe with a nipple superimposed upon it; and that that part of the world which corresponds to the nipple is the highest and the nearest to heaven, and is found below the equinoctial line. Thus he explained the deviations which he noted in the magnetic needle, and how it happened that the pole-star described a larger circle in the sky, and that the air was more temperate. Humboldt justly observes that these hypotheses, deduced from mistaken measurements, indicate in Columbus a deficiency of mathematical knowledge and strange aberrations of fancy.

Nothing better than his own words proves Columbus's failure to recognize the results of his own work. In a letter written to the Catholic kings in October, 1498, he affirms that the *terra firma* discovered by him was well known to the ancients, and not unknown, "as the jealous and the ignorant have striven to maintain." [2] He, therefore, recognized in himself no other merit than that of having reached by another way the countries of Asia already known to Marco Polo.

Moral Sense, Cruelty, Untruthfulness.—As is common with psychopaths, Columbus was even more defective than the average man of his time in moral sense. One not unjust cause of his persecutions was that, having found no gold, and wishing to make some by the sale of the aborigines (under pretext that they were idolaters), he seems to have prevented their being baptized. Certainly, from the time when he first set foot in Cuba, he reckoned upon the market of human lives as one of the surest resources of the new lands. The first time he wrote to their Highnesses, he said: "There are as many aloes as could be needed, and slaves to be selected from the idolaters." Five hundred, indeed, were sent to the markets of Spain by the end of 1495.

[1] II Esdras, vi. 42.

[2] De Lollis, "Revue des Revues," January 15, 1898.

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Do not let us forget that this was the custom of the period. Even though his contemporary, Las Casas, advocated the abolition of slavery, neither Columbus nor Isabella rose superior to the times.

We have other proofs of his savagery. In Cuba he ordered that any Indian caught in the act of stealing should have his nose and his ears cut off. "For these are members which they cannot hide," he said, which proves what kindly feelings he had for the Indians.

At the time when he made up his mind to take slaves from among the Indians, they not only had not rebelled against him, but had manifested toward him an unconditional adoration. They were ready to change their faith and help in the liberation of the Holy Sepulchre. He might have converted them all, which, even from the religious point of view, would have been more profitable. Still worse, when his own followers horribly maltreated the aborigines, making concubines of the women, slaves and laborers of the young, and targets of the old, and a reaction of sentiment arose, Columbus openly requested the King to approve this condition of things, in these words:

"I beseech your Majesty to allow these people to continue as they are for a year; so that everything may adjust itself for the best."

Certainly, he afterward showed small delicacy or morality in abandoning his mistress, Beatrix Enriquez, by whom he had his son Ferdinand, and suffering her to live miserably on 296 lire a year.

In his will, he wrote to his son to put her in a position where she might live honorably, and added, "to lighten my conscience; for this weighs heavily upon my soul." Thus, it is evident that in abandoning her he had offended against the morality and the religion of his time.

He seized for himself the prize of 10,000 lire promised to whomsoever first sighted land in America, although there is a great probability that another had forestalled him. It is certain that he never acknowledged, in any of his letters, that all the merit in the idea of the discovery of America belonged to Toscanelli, in whose tracks he followed so slavishly as to fall into grievous errors.

In his official correspondence he lied continually. He claimed to have found an abundance of gold and spices. He lied when he asserted that there had been other admirals in his family, and when he affirmed that he had navigated all the West and the East. He lied when he said that for seven years all the world had rejected him, that he was the object of universal ridicule, that one monk alone

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had taken pity upon him. In actual fact, the Duke of Medina Celi, as is proved by a letter from the Duke to the King, had been disposed to furnish him with 4,000 ducats and two ships, but abandoned the expedition to please the Queen, who wished to equip one herself. For the rest, Diego de Meza, Bishop of Zamona, the preceptor of the heir to the King, protected him continually, as well as Caraveggia, Quintonella, and Talavera, as Harrisse fairly enough demonstrates.[1] And this art of ignorant and impudent lying had become, as it were, proverbial in Portugal; so that when he returned the first time from America many would not believe a word he said, but wished to interrogate the aborigines secretly.

Delirium.—De Lollis justly remarks that the clearness and simplicity of his project; his constancy in supporting it; his minute care in returning the principal to the capitalists of the enterprise; his ability to retain them even at the height of discouragement,—all this points to something stronger than conviction, to the material vision of the goal, as only a paranœic can have it. For the rest, delirium clearly manifested itself on the first occasion of gravity. The awful disasters of the sojourn in Jamaica—where he found himself almost abandoned on two puny caravels and in danger of dying from hunger—rendered more acute, on his return from his last voyage, the paranœa of persecution, mingled perhaps with a religious strain. Hence arose a hallucination wherein, as I have seen happen in the dreams and deliriums of the despairing and the paranœic, visions of present and imminent pain were succeeded by others roseate and seductive. Columbus relates how, during his suffering, when anchored off the river Batlen, on the coast of Veragua, he had a vision which placed him in communication with God and raised him to the height of David and Moses, the favorite servants of the God of Israel. A divine voice cried out to him:

"O fool! it is late for thee to believe in and to serve thy God. God of all, what more did he do for Moses or for David, his servant? From the time of thy birth he has ever had a great care over thee. When he saw that thou hadst arrived at the age which seemed meet to him he wondrously made thy name resound throughout the world. Fear not! All these tribulations remain written upon marble and not without cause."

This voice could be none other than that of God himself, though Columbus dared not avow it to himself, and wrote mysteriously, "Thus he finished speaking, whoever he may have been."

[1] "Christophe Colombe devant l'Histoire" (1892).

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Thus, we see in his letters to Donna Giovanna della Torre, when he disembarked in chains at Cadiz:

"From the new heavens and earth which were prophesied of, first by Isaiah, and then by St. John in the Apocalypse, our Lord made me a messenger, pointing out to me where they stood."

But the culmination of the psychopathic condition left behind it a more stable document in the book of "Prophecies," compiled in 1501, wherein,—extracted certainly from the cipher of his name,—Columbus likens his own fate to that of Christ, who suffered upon the cross for the redemption of humanity. In like manner Columbus himself claimed to have been submitted to the shame of chains for having restored mankind to the possession of its world.

In the first part of the "Prophecies" are found grouped the passages in Holy Scripture in which is predicted the universal triumph of the God of Israel; in the second are those which describe the tragic fate in store for Jerusalem; in the third are collected the prophecies concerning the end of the world and the advent of Antichrist; and in the fourth, the fugitive allusions to the treasures of the Orient, the gold and silver of Tarsus and of Ophir.

With the same care as that which enabled him during his voyages to disclose the minutest fact, the least omen by which he was content to regulate his conduct, he sets himself to the task of drawing from the pages of the Bible all allusions to the far-away islands which await the voice of the Lord.

"In omnes terres exivit sonus eorum, et in fines orbis terræ verba eorum." This passage from Psalm xix—the one in which the heavens transmit the echoes of glory from the East to the West—recurs eleven times under his pen.

Columbus, who had sought the East through the West, claimed that the terminals of his itinerary were laid down in these passages. Next to the authority of Isaiah and Jeremiah stands that of St. Augustine and of Peter d'Ailly; but the whole is so coördinated as to prove that the voice of Christ must traverse the whole ocean and echo through the most remote islands of the sea before the end of the world takes place. It is a book of a kind that is not uncommon among monomaniacs and paranoeics. De Lollis comments:

"Mystic visions supplanted so completely the cosmographies in his mind that although at first, on the authority of Aristotle and Strabo, Spain appeared to him, by its geographical position, to be the natural point of departure for a voyage to the trans-

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atlantic world, he afterward preferred to consider her as the nation which the Divine Will had from the beginning destined to facilitate the complete triumph of Christianity, through the banishment of Jews and Moors from the Kingdom, and through the reconquest of the House. The prophetic soul, also, of Abbot Gioacchino, which influenced Cola di Rienzi and Lazzaretti, had expressed itself in the same fashion: 'The Abbot Gioacchino Calabrese,' notes Columbus, 'has said that there shall issue from Spain he who is to rebuild the House on Mount Zion.'"

Columbus saw in himself the man prophesied of by God to carry (Christo ferens—Cristoforo) the name and the glory of God to the ends of the earth; and he collected from the Prophets and from the Bible all the pretended allusions to his discoveries. In a letter to the King, which accompanied the book of "Prophecies," he reviews this argument, with a promise of the riches that he had discovered. This became the exclusive aim of his voyages. He claimed that God had inspired him with the idea of the expedition to India for this reason alone. He added another argument peculiar to the paranœic. "The Holy Fathers of the Church," he said, "affirm that the world cannot last longer than 7,000 years. Now, inasmuch as, according to the Alfonsine tables, 6,845 years have elapsed, in 155 years from now the shadow of Antichrist will have veiled the sun, and the Eternal will have destroyed the world." Therefore, the New World would have perished in a century and a half; but, as it was written in the Holy Scriptures, that before the world comes to an end the voice of Christ will have penetrated to its furthest confines, it was clear that he, Christopher Columbus, had been selected as its herald. In fact, he denied all intervention of human wisdom in his undertakings, deriving everything from the inspiration of God—and, we might add, from the paranœic suggestion which hid from him that which must then have appeared to him to be the truth. He would have reconquered for Christianity the treasures which should be restored to Christianity and the Holy Sepulchre.

He wrote this letter in 1501, when he had already suffered the just consequences of the lies with which he had excited the cupidity of King Ferdinand. Nevertheless he was not discouraged. He repeated to the sovereigns that he, old and failing, would restore the holy House of Jerusalem upon Mount Zion, as had been predicted by the prophets, and also by the Abbot Gioacchino. The latter had asserted that such a man was to issue out of Spain.

Columbus continued to imagine fresh lies. In his letter to the nurse of Prince Buongiovanni at the end of 1500, he speaks of innumerable and bellicose Indians courageously subdued by himself. Yet,

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this very letter was written almost immediately after his landing in Cadiz loaded with chains. He compiled his "Prophecies" later in the interval between the third and fourth voyages.

The last voyage had for its aim the amassing of the imaginary treasures lying since the time of Solomon in the islands of the Orient, in order to make use of them in the expedition against Jerusalem. In the account of this unfortunate expedition, which he wrote to the King from Jamaica on July 7, 1503, Columbus was still animated with the same fanaticism and the same intentions. He had not found the strait which was to conduct him through the western coast of the Isthmus of Panama, where he claimed that his treasures lay; but this did not prevent him from maintaining the conviction that in the interior of Veragua, discovered by him, David had deposited the 3,000 hundredweights of gold left to Solomon for the building of the temple, and the 660 hundredweights which the messengers of that king carried thither. He continued to feel in himself something more than human. In his description of the tempests which struck him on the southern coast of Haiti, he compares his sufferings with those of Job. What man ever born, he exclaimed, not excluding Job himself, would not have died of desperation? This shows that he was a *semistio*. Now, among alienists who could doubt that we have to do with a paranœic, religious, ambitious, and subject to hallucinations?

That at this period Columbus was suffering from an attack of religious melancholy is very clear. But it is also certain that this was the exaggeration of a tendency which existed in him from infancy; for we see that he cannot undertake any action without first offering up a special prayer. As we have seen, he himself affirms that it was not genius which urged him on to great discoveries, nor knowledge, —although he had the necessary familiarity with the sea,—but the Divine help; and De Lollis agrees that it was not genius, but faith, which bore him on. I would substitute for faith and for divine assistance a paranœic auto-suggestion, which blinded him to all the real difficulties, which made him believe himself an instrument in the hand of God, and which, on the most fragile basis, such as the hypothesis and the drawings of Toscanelli, made him embrace and sustain the immense problem which would have overwhelmed any other man of normal genius. The ambitious and religious paranœa, which acquired force and acuteness in the dolorous experiences in Jamaica, so inspired this man in his maturity, who, in culture, in intellect, and in energy, was little below the average, that it performed the work of genius

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and drove him thither where the greatest genius would hardly have arrived.

Nor shall we say this religious inspiration aggrandized him, as well as the writings which he offered, in which calligraphy and signature were the effects of the time. Above all else, geniuses are always superior and not slaves to their time; but genius, because it is original, knows how to differentiate itself from the dominant custom and from the ideas in temporary vogue. On the one hand, when interest or vanity, the basis of his delirium, was at stake, Columbus transgressed the most precise rules of religion, even those against which no man of merely tepid devotion would have transgressed, such as depriving the aborigines of baptism in order to sell them, and lying with solemn oaths about the wealth of gold in the countries he had discovered. It was a morbid and not a wholesome religion with which he was afflicted in his latter days.

On the other hand, even if he had been inspired by the current religion, this would not have excluded paranœic madness, because even this always knows how to tinge the environment with its own color. In short, if at that epoch the devotion to Jerusalem was a lively one, so also was that of geographical discoveries. Thus, the very ideas of Toscanelli, which were constantly followed by Columbus, were adopted by Martin Behaim, who, presenting himself before John II of Portugal in 1493, proposed to him, exactly as did Columbus, to equip a navy to go to the land of silk and spices, and with exactly the same arguments that Columbus used.

The paranœa of Columbus, therefore, applying the materials of delirium to his environment, made acute his ingenuity, suppressed its misoneism, caused him to silence with the lust for gold and ambition the calculations of prudence, the objections of criticism, the uncertainty and idleness of inertia, and raised him to the height of a genius. It made an average man work with more enthusiasm than he would have done if he had remained normal.

But it will be said, "Do you believe that Columbus was a madman like so many others? If so, then explain to me how there were so many madmen in his time with no conception of such discoveries." No: he was not a vulgar paranœic. If paranœa had attacked one of the vulgar among his contemporaries, it would have made no more of him at the most than an anchorite or captain of adventurers bound to go to the bad. But, attacking a man of genius, or of ingenuity at least, it served as a ferment, supplemented his lack of culture, stripped

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him of any fear of novelty, thereby preventing him from seeing real obstacles in the way of his enterprise, dowered him with that energy of action which a man of equal and perhaps even greater genius—Toscanelli himself, for example—would not have had. In fact, both the latter and Behaim had an intuitive knowledge of the truth anterior to and greater than his; but neither arrived at any practical conclusion. A great intuition, amounting almost to genius, was Columbus's when, for example, he noted that the pole-star had a motion like all other stars; when he discovered the deviation of the magnetic needle and suspected that it was due to the influence of temperature; when he was the first to explain the parallelopipedal form of the Greater Antilles and the persistence of equatorial currents; when, according to Oviedo, he was the first to introduce the use of the astrolabe; and when, observing the great masses of seaweed floating 260 leagues from the Island of Ferro, and then again in the mouth of the Santiago River, he divined that the Sargasso Sea must mark a fixed line in the ocean, and that the terrestrial plants attached to reefs were accumulated by means of a direct current from east to west.

There was an intuition of the equatorial current which was discovered later. It was certainly he who first noticed the variations toward the northeast of the magnetic needle. Combining his observations on the needle and those made on the fixed line of the Sargasso Sea and the terminal change at 100 leagues from the Azores, he decided there was an unvarying line in the Atlantic which marked the great climatic divisions of the ocean.

Genius was shown in extracting, from the reports of mariners concerning pieces of carved wood floating near Correnti, indications which completed the theory of Toscanelli. Nevertheless, it appears to me that it was always intuition, aided by singular nautical knowledge, never direct discovery docketed in the manner of a true scientist. The former, as he himself confesses, and as his contemporaries and all his biographers have declared, would never have culminated in such great results without the ferment, the blind and irresistible energy, furnished to him by what he called "Divine inspiration," and which we (who cannot find much religion in one who infringed the commonest precepts of humanity and of religion) must call paranœa. Of this the hallucinations in Jamaica and his book, "Las Profecias," are only the culminations provoked by misfortune.

CESARE LOMBROSO.

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THE INORDINATE DEMANDS OF THE INTERSTATE COMMERCE COMMISSION.

In The Forum for April, Interstate Commerce Commissioner Charles A. Prouty writes in behalf of his wishes for largely increased powers for the commission of which he is a member.

Mr. Prouty devotes himself, in part at least, to some remarks of mine in "The North American Review" for January, and combats the proposition urged by me that the amendments proposed by the Commission would entirely reverse the theory upon which the Act to Regulate Commerce was based. He points out that the Interstate Commerce Act authorizes the Commission to make an order requiring any carrier violating the law to cease such violation. He then proceeds to argue that the theory of the Act would not be changed by an amendment giving the Commission the power, in addition, to specify and fix what the carrier may do in the future.

The courts have and exercise the power to enjoin the enforcement of schedules of rates fixed by State railroad commissions, if those rates are found to be unreasonably low. But the courts have not the power to go further and prescribe the rates which those railroad commissions may enforce in the future. Any proposition to give such a power to the courts would admittedly involve a most radical change in the theory of their jurisdiction over the railroad commissions; and yet Mr. Prouty says that precisely the same change in the authority of the Interstate Commerce Commission over the railroad companies would be no change at all.

The argument made by Mr. Prouty, that to give his Commission power to make rates would not change the theory of the Act, is not a new one with the Commission. Indeed, the members of that body asserted that the theory of the original Act embraced this power; and they, accordingly, attempted to exercise it. The Supreme Court of the United States entirely disagreed with this view; and not only held that such ratemaking power had not been conferred on the Commission, but seemed to regard it as radically different from any power

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ever given to that tribunal. In speaking of this ratemaking power, the Supreme Court said:

"The power itself is so vast and comprehensive, so largely affecting the rights of carrier and shipper, as well as indirectly all commercial transactions . . . that no just rule of construction would tolerate a grant of such power by mere implication." (167 U. S., 494.)

Again:

"The power to prescribe a tariff of rates for carriage by a common carrier is a legislative and not an administrative or judicial function, and, having respect to the large amount of property invested in railroads, the various companies engaged therein, the thousands of miles of road, and the millions of tons of freight carried, the varying and diverse conditions attaching to such carriage, is a power of supreme delicacy and importance. . . . That Congress has transferred such a power to any administrative body is not to be presumed or implied from any doubtful and uncertain language." (167 U. S., 505.)

It seems idle, therefore, to say that the grant to the Commission of this power, "so vast and comprehensive, so largely affecting the rights of carrier and shipper, as well as indirectly all commercial transactions,"—this "power of supreme delicacy and importance,"—would not change the theory of the Interstate Commerce Act.

Mr. Prouty insists that the amendments he desires cannot confer upon the Commission any power analogous to that possessed by the ratemaking commissions of some States. Yet the amendments he seeks propose to give to the Commission the power to proceed on its own motion whenever it is of opinion that the rates of any number of carriers are not reasonable or lawful, to notify the carriers, and then to make an order that the carrier shall file and publish schedules in accordance with the rates established by the Commission. It is difficult to conceive how any greater power could be exercised by any State commission. In this connection the language of the Supreme Court in the case quoted from above is interesting:

"There is nothing in the Act requiring the Commission to proceed singly against each railroad company for each supposed or alleged violation of the Act. In this very case the order of the Commission was directed against a score or more companies, and determined the maximum rates on half a dozen classes of freight from Cincinnati and Chicago respectively to several named Southern points and the territory contiguous thereto; so that if the power exists, as is claimed, there would be no escape from the conclusion that it would be within the discretion of the Commission of its own motion to suggest that the interstate rates on all the roads in the country were unjust and unreasonable, notify the several roads of such opinion, direct a hearing, and upon such hearing make one general order reaching to every road and covering every rate." (167 U. S., 509.)

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Of course, no State commission changes the rates fixed by the carriers unless it thinks others ought to be established; and under the authority desired by the Interstate Commerce Commission it can do exactly the same thing.

Nor would the power of judicial review proposed by the Commission's scheme essentially differentiate the powers of the Interstate Commerce Commission from the powers of the most powerful State commission. Suppose, for example, the Commission should decide to change all interstate rates in the territory east of the Mississippi River and south of the Ohio and Potomac (and its attempted action in the Cincinnati-Chicago Freight Bureau cases would, if upheld, have had an effect almost if not quite as extensive). The Commission, after a hearing of the carriers, would issue an order to all the carriers in that territory to file and publish, on or before a certain day, to take effect on a certain day, schedules in accordance with the decision of the Commission. Those rates would go into effect at the expiration of thirty days, unless the carriers interested should begin sooner, in the United States Circuit Court, proceedings to review that order; and even then they would go into effect unless the Court could be convinced, upon an inspection of the records of the proceedings before the Commission, that "it plainly appears that the order proceeds upon some error of law, or is unjust or unreasonable on the facts, and not otherwise."

There could be no question about the power to make the order, since the Commission would have done simply what the law authorized it to do. The only question would be as to its reasonableness. That question is essentially a question of fact, and one upon which it is extremely difficult to secure any convincing evidence of a tangible character. The Court could hardly say, therefore, that "it plainly appears," from an inspection of the record, that the order is "unreasonable"; so the rates fixed by the Commission would probably go into effect pending the judicial inquiry. For the same reason, the Court, on final hearing, would not be disposed to overturn the Commission's decision on a question of fact. So that all the probabilities are that the order would be enforced, unless the carriers could convince the Court that the rates were so unreasonably low as to be practically confiscatory in character. Every carrier has precisely the same judicial protection from the action of the most powerful State railroad commission in the land. Both in extensiveness and effectiveness, therefore, the Interstate Commerce Commission would have as

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much power as the most autocratic State commission, except that the Interstate Commerce Commission's powers would be indescribably greater, on account of the vastly greater sweep of its jurisdiction.

The question then arises, whether there is any necessity for giving to the Interstate Commerce Commission, or to any other tribunal in this country, this power "so vast and comprehensive" and of such "supreme delicacy and importance." On this point I stated that there was no reason for the bestowal of such stupendous power, because unjust discriminations and undue preferences could be corrected under the law as it stands, and excessive rates are in and of themselves practically obsolete. Mr. Prouty vigorously assailed this statement as to excessive rates. But, notwithstanding his latest illustrations, I am still forced to disagree with him and to agree with his associate, Mr. Knapp, who is Chairman of the Interstate Commerce Commission and who stated, at a hearing before the Senate Committee on Interstate Commerce on March 18, 1898, that "the question of excessive rates, that is to say, railroad charges which in and of themselves are extortionate, is pretty nearly an obsolete question."

It would be exceedingly difficult to find a single rate complained of as excessive in this country except where the real complaint is or can be based on the claim that it is unjustly high, as compared with other rates of the same carrier either on the same commodity or on other commodities; and, if any rates are unjust in this comparative sense, they amount to undue preferences between different localities or between different classes of traffic, and as such are susceptible of remedy under the law as it stands.

The Twelfth Annual Report of the Commission, recently published, illustrates this proposition. It shows that, during the year covered by the Report, the Commission decided but eight cases involving alleged unreasonable rates. In five of these the Commission found the rates to be reasonable; in two of the other three the Commission distinctly found that the rates complained of constituted unjust discriminations as compared with other localities; and in the remaining case it found that the rate complained of was too high when compared with other rates of the same carrier. From this it seems that in the only three cases which the Commission has considered in the past year, in which it was of opinion that the rates were too high, it was able to make orders prohibiting their continuance,

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which it could base upon the powers it exercises under the "unjust discrimination" and "undue preference" sections.

If, therefore, reasonable provision for correcting the only practical causes of complaint with respect to rates already exists in the law, it would certainly be impolitic to confer upon the Commission a power of any serious importance simply that there might be a theoretical remedy for every theoretical complaint; and certainly a power of such importance as the one desired by the Commission should not be conferred on any tribunal whatever without the gravest practical necessity.

It is possible that in parts of this country interstate passenger trains are not run at as high a rate of speed as certain communities may desire, and that the train schedules are not arranged to suit their wishes; and it is entirely probable that, if the Commission were intrusted with the power to hear and determine complaints of this character, such complaints might arise from various parts of the country. Yet, I take it, no one would seriously urge that the Interstate Commerce Commission ought to be vested with the power to prescribe the speed of every interstate passenger train in this country, its hours of departure and arrival, and the number of places at which it should stop. Still, if any community is dissatisfied in that respect, there seems to be just as much reason to confer this remarkable power upon the Commission as there is to confer upon it the remarkable power of prescribing, if it choose to do so, each and every interstate rate which shall in the future be charged by every carrier in this country. Exactly the same practical considerations operate to protect the public from unreasonably high rates as work to prevent unreasonably slow train service. In both cases the public is substantially protected, because it is to the interest of the carriers to develop traffic by furnishing both proper train service and proper rates.

It would seem, nevertheless, according to the principles laid down by Mr. Prouty, that the communities dissatisfied with their train schedules are entitled to a trial of the question before some tribunal which can administer an adequate remedy. No matter how few or unimportant the cases, still a new and necessarily unlimited power over the operation of passenger trains should be conferred upon the Interstate Commerce Commission, to the end that it may try such occasional complaints. The Commission could become very expert on the subject, would be presumed to be impartial, and would not change a schedule without an opportunity for the carriers to be fully

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and deliberately heard. Of course, in running trains, as well as in charging rates, the carrier is bound to observe the interests of the public, and ought not to object to reasonable regulations. These are the reasons urged by Mr. Prouty why railway managers should not object to the ratemaking power which the Commission desires.

But, notwithstanding all these alluring arguments, would it be surprising if a railway manager honestly and earnestly desired to continue to manage the properties intrusted to his control, rather than to become a mere deputy to carry out the orders of the Interstate Commerce Commission as to train service? And is it not equally reasonable that railroad managers should object to the proposition to authorize the Commission to become the traffic manager of all the railways in the country, so far as the Commission chooses to assume that position, especially in view of the fact that there is already adequate regulation and adequate protection for the public, and since there is no substantial reason whatever for conferring upon the Commission these new powers?

Mr. Prouty discusses at some length the power desired by the Commission to prescribe minimum rates, in order to compel the enforcement of the Commission's views as to what should be the relative commercial importance of different localities situated on different railroads. One of the most powerful influences in the general development of industry in this country has been the constant effort of the respective railroads of the country to develop, each on its own line, every industry which could be successfully maintained there. To do this each railroad has striven to adopt such rates as might be necessary to enable such industry on its own line to compete with industries on other lines. If the point on one railroad is at some natural disadvantage not felt by the competing point on another railroad, the former makes a concession in its rates to compensate for that natural disadvantage. The result has been the development all over the country of industries which otherwise would have clustered about the few places possessing the principal natural advantages. That it is to the best interests of the country that industry should be disseminated in this way cannot be disputed. Yet, in the Eau Claire case, which Mr. Prouty says is a perfect illustration of the necessity of this power which the Commission desires, the Commission announced that a railroad had no right to develop the territory on its own line by so adjusting its rates as to enable the points on its line to get a fair share of business in competition with points not on its line, with a more

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favorable natural location; and it pronounced such a principle "radically unsound."

It will be generally admitted that no railroad company should discriminate between localities on its own line or seek to build up one locality at the expense of the other; and the Interstate Commerce Commission now has the power to prohibit any such unjust discrimination. But is it not to the best interests of the country that each railroad should be permitted to do all it can to build up every industry and locality upon its line; and is it safe to intrust to any tribunal, however wise and impartial, the tremendous power of saying to a certain railroad company, "You shall do so much to develop the territory on your line, and no more, because, in our opinion, if you go beyond the limit we fix, some other point on some other line will not get that share of the commerce of the country which we choose to apportion to it"? But, if, under any circumstances, it would be proper to give such a tremendous power of apportioning the national commerce to any tribunal, it certainly ought not to be given to one which has declared it "radically unsound" for a railroad company to develop the territory on its own line by so adjusting rates as to compensate that territory for natural disadvantages. The outcome of the Commission's theory would be, that the point with the greatest natural advantages would be freed from competitors, and centralization and monopoly would be encouraged and facilitated.

But, Mr. Prouty says, this matter is to be decided by somebody; and why not by the Interstate Commerce Commission? There is no more reason for intrusting the decision of this question to the Interstate Commerce Commission than there is for intrusting to that commission the solution of any other industrial or commercial problem. When a railroad company is dealing with persons along its own line, those dealings may be a proper subject for the supervision of the Commission, that it may see that all are treated fairly. But when the railroad company, acting in concert with the localities on its own line, and identified in interest with them, comes to deal with another railroad company, which is likewise acting in concert with localities on its line, and identified in interest with them, the question is a very different one; and there is no more reason and no more propriety in the Interstate Commerce Commission intervening and settling the questions which may arise out of the efforts of the respective forces to develop their respective portions of the country than there is for the Commission to intervene and settle any other phase of commercial

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rivalry. All the questions growing out of industrial and commercial activity in this country have to be decided in some way. If that fact is a sufficient reason for providing a Government agency to decide them, so as to give to every one of the inhabitants of this country his just proportion of prosperity, to be determined by what are his natural advantages, and if the Interstate Commerce Commission is the proper body to be selected for this task, then it may be proper to give to the Commission the power it wants in order to enforce its ideas as to the relative commercial importance of localities on different railroads by fixing a minimum rate, so as to limit the commercial activity of the place which the Commission thinks is getting too prosperous. On no other theory could such power be conferred.

Mr. Prouty states that if, in the practical operation of a railroad, it is or is thought to be to the interest of that railroad to foster one industry or locality or individual at the expense of others, it is usually done; and he refers to former discriminations in favor of the Standard Oil Company, on the part of certain railroads, and to rebates and preferences in favor of other great trusts. All these are unjust discriminations, and are prohibited absolutely by the present law; and their prevention will not be at all facilitated by the extensive powers the Commission now demands.

Mr. Prouty also refers to my making a rate which absolutely determines that business shall be done at a particular trade-centre, and shall not be done at an outlying point; and he asks if in that I do not "stifle every opening industry which gasps for existence at the latter place." No officer of the Louisville & Nashville Railroad Company has ever made a rate which absolutely or at all determined that business should be done at a particular trade-centre and should not be done at the outlying point. Indeed, it would be more to the interest of the railroad companies that the business should be developed at outlying points, because there the railroad company would get the whole of it instead of having to share it with the competitors which are found at the trade-centres; and it is the policy of railroad companies to encourage the development of industries at local points. Notwithstanding this, however, business has an obstinate way—which the railroad companies cannot control—of refusing to develop at local points and of developing instead at trade-centres. Trade-centres are places which, by reason of their location on navigable waters, or on account of the converging of various railways, enjoy superior advantages which force the railways to give reduced rates in order to

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share in the business; and, if a lower rate is charged to the trade-centre than to the outlying point, it is not because the railroad company prefers that the business should go to the trade-centre, but because it is bound to charge that rate or get none of the business, while, at the same time, it cannot afford to charge the same low rate to points not enjoying similar advantages. In making such rate adjustment, the railroad company does not give the trade-centre any advantage, but simply recognizes the advantage which the trade-centre will have, whether the railroad company gives it that rate or not. This system of ratemaking, after having been very thoroughly inquired into in the Federal courts, in numerous proceedings instituted by the Commission, has been almost universally approved by them. Moreover, the present law affords ample opportunity to prevent this practice in every case where it is not just and proper.

Mr. Prouty states that his proposition is, that the business of railway transportation is so far a function of Government that the United States is bound to see that every individual, every industry, every locality, no matter how humble or insignificant, enjoys the advantages to which he or it is fairly entitled, and that he or it is not crushed out of existence by the exigencies of competition. By this, Mr. Prouty no doubt means only that the Government ought to see that every railroad company gives to every individual, every industry, and every locality on its line the advantages to which he or it is fairly entitled, and does not unjustly discriminate between any individuals, industries, or localities on its line, either on the pretence of competition or otherwise. So understood, there is no occasion for him to spend time in urging the proposition; for it is not denied. Besides, the present law affords ample opportunity for the correction of any such unfairness or injustice.

Mr. Prouty admits that the Commission's scheme of amendment would radically change the theory of the present Act, in making the orders of the Commission self-executing, unless reviewed by the courts; and he argues that it is necessary that the orders of the Commission be made promptly effective in order that they may be of value. He cites the English Commission as an example of a tribunal which enforces its own orders, and points out that no appeal is allowed except upon questions of law. This example strikingly illustrates the reasons heretofore urged by me why the Interstate Commerce Commission should not have such powers. The English Commission is in fact a court of record, and is so constituted as to insure in its

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members a judicial temperament. Three of its members are judges of the Superior Courts; the other two hold office during good behavior; and one of these two must be experienced in railway matters.

A still more valuable guarantee of impartiality is, that the English Commission has no duties to perform which would tend to impair its judicial character. Practically, its sole business is to hear and determine complaints which are brought before it by proper complainants, and to decide what, if any, relief the law entitles the complainants to obtain. Since the English Commission is in fact a court, is as carefully constituted as a court, and performs no functions inconsistent with those of a court, it is not unnatural that its judgments should have effect like those of other courts.

The Interstate Commerce Commission, on the other hand, is not a court, nor is it constituted like the courts; and, moreover, it performs functions which are entirely incompatible with any that could or ought to be exercised by any court or by any other tribunal authorized to render self-executing decrees. The Commission is a bureau for gathering railway statistics, and for the supervision of various details of railway management; it has inquisitorial powers to detect violations of the law on the part of railway companies; it may cause prosecutions to be instituted to punish violations of the law; and it is made its duty to inquire into the management of the business of carriers, and to execute and enforce the provisions of the law. Besides all this, the Commission may institute in its own name complaints before itself, and then proceed to hear and determine them. In addition to these statutory powers and duties, the Commission, or some of its members, have undertaken the business of conducting in the public prints, and elsewhere, an aggressive campaign for the enlargement of the Commission's powers. While all of these various functions may be entirely proper, a man who exercises them can hardly be relied on to be an impartial judge; nor should he be intrusted with authority to render decrees which may be enforced without any resort to the courts for their judicial determination. It is certainly contrary to the spirit of our institutions for a tribunal to be detective, prosecutor, court, and advocate relative to the same matter.

Mr. Prouty's article affords several instances of that unfairness which is occasionally found in partisan controversies, but which should not be manifested by a member of a tribunal professing to be the proper depositary of a power to render self-executing judgments of the most far-reaching importance: this, however, is no doubt the

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natural result of combining in one person the incompatible functions above referred to. Thus, at the outset of his article, Mr. Prouty states that the subject "is one of paramount importance . . . and one which, as Mr. Smith suggests, must continue to receive attention until it is disposed of in some form or other." I made no such suggestion in the article referred to. Of course, the fact that I did or did not make such suggestion is immaterial, except as illustrating Mr. Prouty's peculiar method of twisting my remarks to suit his own purpose. The amendments proposed by the Commission are, in fact, of paramount importance; and I suppose they will continue to be forced on the attention of the public so long as a persistent campaign in their favor is maintained by Mr. Prouty and his associates.

Mr. Prouty next states that I say commissions may be divided broadly into "advisory commissions and commissions with power," and that I assume that the Interstate Commerce Act aimed to create a mere advisory commission. He further says I assert that there ought to be an advisory commission. There is no foundation whatever for these assertions. What I said on this point was as follows:

"Railroad commissions can be of but two sorts: First, those which are designed to enforce the law, by instituting prosecutions and by assisting complainants against the railways both in the courts and out; and, second, those which, in fact, are empowered to take charge of the traffic departments of the railroads and make rates for them. No one can read the debates in Congress without being convinced that the Interstate Commerce Commission was intended to be simply of the first-named class. The proposition now is to change the Commission entirely by putting it into the second class, and to constitute it thereby the virtual traffic manager of all the railways in the United States."

I fully appreciate that the Interstate Commerce Commission is not a mere advisory commission, but that, on the other hand, it has extensive powers,—powers which are ample for the protection of the public;—and nowhere in my article did I suggest any diminution of those powers or the creation of an advisory commission.

Mr. Prouty says I assert that the correction of transportation abuses should be left with the courts. Further on he says:

"As a rule, it is the great shipper who enjoys the preference, and the small shipper who complains. Between the latter and the railway there can be no legal contest. Ordinarily, he dare not even begin a proceeding, for fear that the little advantage which he has may be taken from him, and that he may be crushed out altogether. Mr. Smith insists that he and the shipper should be left to settle their own difficulties: if the shipper does not like the medicine which is prescribed for him, let him apply in regular course to the courts and obtain his remedy there. Let me, urges Mr. Smith, deal with this gentleman myself. Let me array against the little farm or the little store of my patron the $170,000,000 capital and the $20,000,000 revenue of the rail-

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road which I operate, and there will be no serious trouble. . . . Said a great enemy of Rome, in reference to the conduct of that nation over its subjugated provinces, 'She makes desolation, and calls it peace.' If all railway regulation were remitted to the courts, quiet would undoubtedly reign along the line of the Louisville & Nashville."

While all this is quite effective, there is nothing whatever in my article to justify it. In my article I recognize fully the power of the Commission to take cognizance of complaints as to transportation abuses, and to prevent them by pursuing the procedure outlined in the Act. The shipper does not have to apply in the regular course to the courts, and obtain his remedy. He can go to the Interstate Commerce Commission; get it to espouse his cause, and order the discontinuance of the objectionable practice; and then the Commission can go itself into court to enforce that order. No one is objecting to this course. So, while, as a matter of fact, about the safest thing a man can do, and one of the most frequent, is to sue a corporation, the individual complaining of a violation of the Interstate Commerce Act does not have to proceed against the railroad company on his own responsibility unless he chooses to do so; for, under the present law, he can have the entire contest conducted by the Commission.

Therefore, Mr. Prouty's remarks just quoted, while of much rhetorical value, are not relevant; and, while one might not be surprised to find a digression of this misleading character in the speech of an adroit advocate, it is unfortunate to find such a tendency manifested in the public writings of a member of a tribunal already charged with grave duties, and now seeking new powers of the very highest importance, including the judicial power to render self-executing decrees.

Mr. Prouty, in the conclusion of his article, takes occasion to misrepresent my position and the position of the Louisville & Nashville Railroad Company with reference to the Act of Congress providing that after a certain day no cars should be used in interstate commerce unless equipped with certain safety appliances. He seeks to create the impression that in that matter the Louisville & Nashville Railroad Company and I, as its President, stood before the country as deliberate violators of the law, and as deliberately disregarding the dictates of humanity. I submitted to the Commission all the facts on that subject; I believed them to constitute a complete justification of the course the Louisville & Nashville Railroad Company had been forced to pursue; and any fair-minded person ought, in view of those facts, to have acquitted that company of any purpose to violate the law or to obstruct its operation, or of any design to evade any duty

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suggested by the dictates of humanity. Nearly every railroad company in the country joined in the application for a general extension of the time within which to equip cars in accordance with that statute, although many of them had been so situated as to be able to complete that equipment; and the Commission, after full hearing, granted a general extension of two years.

Aside from all other considerations, the disposition which Mr. Prouty exhibits to utilize all the arts of an over-zealous advocate, in attempting to promote his ambitious designs, would seem to make it apparent that the tribunal of which he is the representative ought not to be clothed with the grave judicial powers so persistently sought.

Mr. Prouty states that a majority of railway managers are beginning to favor some just measure of Government supervision. What those railway managers favor is a law authorizing pooling. All proposed amendments to legalize pooling provide for the amplest powers in the Commission over all pooling contracts and all rates maintained under them; so that there may be no danger that pooling will lead to unreasonable rates. The Commission, being an ambitious body, is not content with these extensive powers, and insists that it will use all its influence to prevent any pooling legislation, unless it be given the power—wholly unconnected with pooling—to make rates on all interstate traffic, to render self-executing decrees, and so forth. Some railway managers are so extremely anxious for the pooling privilege that they are willing to concede the price demanded by Mr. Prouty and his fellow commissioners; and these are the railway managers who seem to excite Mr. Prouty's high admiration.

In the territory south of the Ohio and east of the Mississippi, where traffic is much less dense than north of the Ohio, and where water competition is much more frequent and effective, the railroads have been forced to adopt a rate adjustment which has, unfortunately, proved exceedingly distasteful to the Commission. The Commission has time and again assailed that adjustment; and the courts have time and again upheld it as being just and proper. The Commission is nothing if not persistent; and, if it gets the ratemaking power it wants, it will, through making rates, do what it has been unable to do otherwise, and that is, force those railroads to desist from a system of ratemaking which the courts have repeatedly declared to be entirely proper. It is not strange, therefore, that the railway managers in that section should object to placing such power in the hands of the Commission.

MILTON H. SMITH.

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THE CURRENCY OF PORTO RICO.

It is unfortunate, for many reasons, that Congress did not find time during the last session to arrive at some scheme of adjustment for the financial system of Porto Rico. Complaints of confusion are numerous; and the business of the island is seriously hampered by uncertainty as to the ultimate value of the money in circulation.

Porto Rico was the only Spanish possession which had a coinage distinctly its own; and the readjustment of the financial affairs of that island is complicated by the fact that this special coinage has a face-value which, while greater than the bullion represented, is less than that of American money of similar denomination.

When Porto Rico was taken by the United States, the currency of the island consisted of the following coins; viz., silver pesos, or dollars; copper centavos, or cents; and twenty-centavo and forty-centavo silver pieces. The smaller silver pieces corresponded to the regular Spanish coinage; but the peso, or dollar, was distinctly Porto Rican, and was so stamped; and it was against the law either to export or to import it. The Porto Rican dollar contains about 41 cents' worth of silver; its comparative value in that respect relatively to the American dollar being about 93.5 to 100. The origin of this special dollar is unique in the history of currency.

Before 1877 plenty of gold circulated in Porto Rico; and an English pound was worth from $4.85 to $5. A rise of the sterling exchange to $5.10 was then an extraordinary event. In 1879 a European banking concern bought, at the rate of 66⅔, all the existing slave bonds; and, although the purchase was made for gold, the firm was allowed to pay in Mexican silver. After that purchase Mexican silver became the currency of the island; and all the gold disappeared.

As long as the value of silver was kept up throughout the world, the Porto Rican rates of exchange on London and New York could not fluctuate very much, and depended solely upon the supply and demand. In 1885 a Mexican dollar could still be sold at from 85 to 87½ cents gold; and the rate of exchange on New York was from 15 to 18 per cent. Silver then began to decline; the merchants of Porto

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Rico found it a profitable business to import Mexican silver against their bills on New York and London; and the resulting rapid and constant increase of the supply of Mexican silver in Porto Rico still further contributed to the upward tendency in the price of exchange.

It now became incumbent upon the Spanish Government to do something to check the further decline of values in Porto Rico; and in the latter half of 1886 the importation of Mexican dollars was prohibited in the hope of limiting the stock of currency to the then existing amount. This was the beginning of the attempt to make the rates of foreign exchange independent of the actual intrinsic value of the money in circulation, and, to a certain extent, to make them more stable.

Soon after this the United States enacted the Sherman Silver Purchase Law; and the price of silver again went up. The exportation of Mexican dollars from Porto Rico then became profitable; exchange rapidly declined; and the stock of currency in the island was greatly reduced. Later, the price of silver again declined; and in the years following 1890 the importation of Mexican dollars into Porto Rico became a very profitable business. That it was followed to a considerable extent is shown by the great increase in the amount of silver currency in the island, and the consequent rapid rise in the price of foreign exchange.

The Spanish Government, having exhausted its ingenuity in the attempt to impart some stability to the currency of Porto Rico, and finding it impossible to stop the illegal importation of Mexican dollars, decided, in the latter part of 1895, to create a special currency for this colony. Spain then caused to be coined the present Porto Rican dollars, and exchanged them for all legally circulating Mexican dollars,—those dollars coined during and before the year 1886. These coins were easily distinguishable; the coinage year being stamped on every Mexican dollar, as it is upon the American. The rate of exchange was ninety-five cents in the new Porto Rican dollar for one Mexican dollar. The substitution of one for the other was effected within ten days; and from January 1, 1896, the new Porto Rican dollar was the only legal currency in the island. From that time forward the rates of foreign exchange were governed by the law of supply and demand, without regard to the intrinsic value of the currency.

Under ordinary circumstances, foreign exchange is governed by the annual trade-balance of a country. That is to say, if the imports

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are greater than the exports, foreign exchange goes up: if the exports are greater than the imports, foreign exchange goes down. This has not been the case in Porto Rico during the last three years; for, while the exports have been greater than the imports, foreign exchange has constantly risen. Other influences have been at work; and allowance must be made for these in considering the local value of the Porto Rican dollar. The troubles in Cuba brought about a very uneasy feeling among the capitalists of Porto Rico; and, from the beginning of the Cuban revolution, a great deal of money was withdrawn from circulation and sent to the United States or to Europe. This demand for foreign exchange increased its price; and, despite the excess of exports over imports, it rose continually.

During 1896 exchange ranged from 50 to 61 per cent; in 1897, from 60 to 74 per cent; and in 1898, from the beginning of the year to the outbreak of the Spanish War, it ranged from 70 to 80 per cent. The balance of trade during all this time was very much in favor of Porto Rico; and but for the exceptional withdrawal of capital above mentioned, exchange would undoubtedly have fallen below the general average of 50 per cent, which prevailed before the introduction of the new currency in 1896.

From what has been said, it is evident that the Porto Rican dollar, although without any exchange guarantee, has always had a face-value, established and maintained by the trade-balance of the island, above and quite independent of its intrinsic worth. This fact established, it is evident that a peculiar situation results when the United States proposes to do away with the currency of the country and substitute therefor American money based upon the gold standard.

The silver dollar of Porto Rico is the basis of all business done on the island. There is about $5,500,000 of this silver in circulation; and that amount of currency seems requisite for the transaction of business. Before the United States went to war with Spain a gold dollar in foreign exchange was worth about $1.70 in Porto Rican silver. Within a week after war was declared it was worth $2.20. When the Americans came to Porto Rico the banks and all business houses gave two Porto Rican dollars for one American dollar. As business increased, they reduced the rate and gave only $1.75. Gen. Miles finally issued an edict to the effect that all Government business should be conducted upon a basis of two for one. This, of course, held good in all Government business: but, as the banks and stores were private institutions, they could not be compelled to accept any

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particular rate; and they continued to do business at $1.75. An arbitrary rate of exchange can only exist during martial rule; and, with the latter removed, matters must again be governed by the more logical laws of trade.

In addition to the silver in the island, there were bank-notes to the amount of $2,500,000, which were issued by the Bank of San Juan. As the war-cloud increased in size these notes were received with less and less freedom; and when the American army landed in Porto Rico they were not circulating at all, because it was impossible to transmit them to San Juan for redemption in the silver upon which they were based. The Secretary of the Treasury of the United States, in his annual report, intimates that the security for the notes is not of the best, that they will probably be retired with considerable loss, and that the Bank of San Juan will go into liquidation.

The problem that confronts the United States, therefore, in readjusting the finances of Porto Rico, is how to get rid of the native coinage and to substitute therefor American money of a different standard of value. Two things must be considered in making the exchange. One is that the Porto Rican silver dollar is worth more to the people who have it than it is to the United States as bullion. The other is that the people have yet to be educated to a different standard of value than that to which they have become accustomed.

The United States cannot afford to injure the immense business interests of the island or to force a violent and radical change upon a million people who are, in their way, intelligent and self-governing. Not only this, but many foreigners—especially Germans—have large investments in Porto Rico; and their interests also must be considered. The $6,000,000 or less of silver now in circulation in Porto Rico is a small item in the amount of business which would be affected by any sudden change in local monetary standards. It is estimated that about $25,000,000 is outstanding in mortgages on land, and $25,000,000 or more in current indebtedness. This $50,000,000 was all handled on a silver basis at a rate of exchange varying from $1.15 to $1.70 in silver for $1 in gold. The contracts do not specify gold or silver, but "pesos," the dollars of the country. Should the Porto Rican money be retired by the United States at its bullion value and American money be suddenly substituted, debtors would be seriously injured and money-lenders made rich. On the other hand, if the United States should retire the Porto Rican dollar at its bullion value, it would cause

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a heavy loss to those who have furnished the capital to develop the country.

Another feature of the present situation is one peculiar to the business customs of the country. Advances on real estate, sugar, coffee, and general merchandise are made for a term of years; and even the most ordinary commercial transactions generally extend over a year and a half before they are closed.

In conversation with many bankers on the island and with men who handle the bulk of the sugar and coffee crops, I found a practical unanimity as to what they thought would be a fair solution of the question. They suggested that the United States should leave the Porto Rican silver in circulation, for a time at least, and should establish an arbitrary rate of exchange, averaging about the same as that in which prior obligations were contracted, say about $1.60 Porto Rican for one American dollar.

In speaking of the currency situation, the head of one of the largest banking and produce firms said:

"The United States ought not to begin its rule here by ruining one portion of the population at the expense of the other. Some middle course should be devised which will be fair to all the interests in the island. All transactions have been made so far in the currency of Porto Rico. Enough of our silver might be melted to give us sufficient currency for our daily transactions, say $1,000,000, which might remain in existence for several years; and it should be made illegal to import or export this particular money.

Then American gold and silver can be brought here and circulated, but with the condition that it shall have a fixed value in relation to the island currency.

In fixing this value, the line should be drawn between the two extremes. A fixed rate of from 60 to 70 per cent on American money would, in my opinion, be fair. All transactions could then be settled, according to convenience, in Porto Rican or American money as circumstances would dictate. It will not take many years to put Porto Rico on a gold basis; and thus the question would work itself out to a successful solution. The people of this island could easily afford to stand any loss the United States might incur in redeeming the Porto Rican silver at a higher value than its bullion worth. As less than $6,000,000 has been coined, the loss would not be large; and the difference could be raised here by taxation and paid into the United States Treasury with such coins as were retired, in sufficient amount to make each dollar actually worth in silver the arbitrary value decided upon. The agricultural population would in the meantime have the benefit of the premium on gold, of which it is in absolute need; and such an arbitrary system might remain in force until all are accustomed to the lower prices in gold values."

Of course, it was not long after Porto Rico was taken by the United States before the Treasury Department was forced to consider the problem in finance here presented. It seemed at first to be

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taken for granted in Washington that the problem was easy; that nothing was needed beyond calling in the Porto Rican silver, weighing it, and issuing as much American money in exchange as the value in bullion called for. The belief that this course was contemplated obtained circulation among the business men in Porto Rico; and a flood of protests went to Washington. This led to a more careful consideration of the matter; and Secretary Gage was forced to admit the justice of the claim that the Porto Rican dollar was really worth more than the bullion value of the silver it contained. In his report to the President, which was transmitted to Congress, the Secretary adopts the Porto Rican view of the situation, and says:

"From information fairly to be relied upon, it appears that the island coins have had a value in domestic exchanges and in the purchase of sterling bills considerably above their bullion value, measured by the world's price for silver. It would seem just and wise to adopt this local value in the establishment of a fixed ratio to the United States standard. To adopt the bullion value of the currency in fixing such a ratio would seriously disturb existing conditions in the value of wages, and work injustice to contract relations between debtors and creditors.

Subject to correction from a better knowledge, I think all interests would meet in giving a fixed value of 166⅔ to the peso—that is to say, the peso shall be maintained at the value of sixty cents, first by receiving it in payment for customs at that price; second, by giving for it, when required, American money at that rate of exchange. It is by a similar process that our own silver money has been kept on a parity with our gold coins. It is not contemplated, in the considerations here presented, to retire the Porto Rican coins—certainly not until the coins of the United States have become familiar and acceptable to the people. . . .

Upon the Government—either of the island itself or of the United States, as may be determined—will fall the loss resulting from the redemption of the Porto Rican coins at an overvaluation. If the peso be rated at sixty cents, as herein suggested, and if the bullion in the coin remains at its present value of forty cents, and, lastly, if the amount of the silver money referred to be correctly estimated at 5½ million pesos, the loss would amount to $1,100,000 American money."

As I have stated, it is extremely unfortunate that Congress did not see fit to act promptly upon the information thus afforded of an extremely embarrassing situation in which a million newly acquired citizens of the United States are placed. Reports from Porto Rico are to the effect that the trouble over exchange extends into every branch of business; and commerce and investments suffer exceedingly in consequence.

JAMES DAVENPORT WHELPLEY.

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THE FUTURE OF THE NEGRO.

THE recent political disturbances in the Carolinas have provoked much discussion of what is commonly called the Negro problem. The Negro has been brought into court, his case made out, and his plea entered by the "other side." The hearing has been entirely *ex parte*. But give the Negro himself a chance to present his own case freely, plainly, fairly, without being subjected to unfair criticism and misrepresentation,—seemingly intentionally prejudicial to him,—and other and more satisfactory conclusions will be reached. All discussions of the subject, so far, hold the Negro responsible for the solution of some problem which has never yet been stated.

Fairly stated, as I understand it, the problem is this: "Will the white man permit the Negro to have an equal part in the industrial, political, and civil advantages of the United States of America?" From this statement of the problem, it is clear that the Negro has no part in its solution. He is here by sufferance, and can remain only by grace. To talk of "rights" means but little. Rights, in the human vocabulary, are just what man gains by contention and struggle, or what the strong concede to the weak. Contention and struggle, in the Negro's case in this country, mean aggravation and death. Whatever comes must be concession. There has always been a race problem, and, I suppose, there always will be, until human nature shall have changed. Egypt, we are told, solved her race problem by divine intervention; ancient Asiatic empires, Greece, and Rome, by the sword: the early Briton was exterminated. The British Empire has its race problem to-day; and 150,000 white-skinned Anglo-Saxons control, soul and body, 250,000,000 dark-skinned Aryans, and exercise toward them a spirit of caste, bitter, blistering, and blighting. There will never be a time without a race problem, wherever two peoples with any points of difference live together. Race problems are in each case simply race prejudice. Race prejudice is unreasonable. It is as deep and abiding as it is unreasonable; and it is excusable because it is unreasonable.

There is a kind of indescribable dislike, founded on the differences

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in racial characteristics, which is manifested in antagonism at every opportunity. We hear of a high plane whereon all races "live, move, and have their being," devoid of race prejudice; but, so far, the world has seen it only in theory. Greek mind, standing tip-toe on the shoulders of the highest Oriental intellect and virtue, never so much as got a glimpse of this "universal racial equalization." Take one thousand white men and one thousand black men, representing the highest intellect, virtue, and industrial skill, trained in all the principles of the Gospel of Jesus of Nazareth, and place them, above want, remote from the contaminating influence of race-hating men, and before the end of the third generation the Race question would be raised and racial lines would be drawn. The black men would rally round their flag; the white men, round theirs. One flag would gain the ascendancy, or both would disappear in amalgamation. Racial identity on racial equality could not obtain. Races and peoples draw lines on the slightest differences regardless of merit. It is as difficult to equalize races as it is to equalize wealth.

Our Race problem is not a Southern problem, but a problem for the Anglo-Saxon people—in India, in Africa, in America.

Education, it is said, will solve the problem. Just how this will come about, we are not informed, and I cannot see. Without some kind of schooling different from that which mankind has had up to date, education will only aggravate the question. The educated Negro will feel that there is no disgrace attached to physical features or to his previous condition; hence, he will more and more love and honor his race, and grow into a kind of pardonable clannishness, or racial pride, which is the mainspring of racial achievement. A blind man can foresee the result.

I may be excused for saying here that the conclusion reached a few months ago by Georgia's distinguished Governor, that Negroes should not be educated because, by reason of education, they grow more criminal and clamor more for association with white people, is not justified by the facts. I do not hesitate to affirm that nine-tenths of the Negro criminals are uneducated. The distinguished Governor will also find, upon investigation, that the more education the Negro gets, the farther he is removed from the desire for social intermixture with the white race. He will find also that marriages of whites with blacks, in States where there is no statutory provision against such marriages, are too few to prove anything but palpable exceptions to the general rule.

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The educated Negro, as a rule, does not desire and does not seek any social admixture with the white race. And, strange as it may appear, this very fact will ultimately vex the problem. Social equality has no place in discussions of race problems. Social equality is a matter of individual preference. No race with pride wishes annihilation, whether by absorption or amalgamation. The body of the Negro race in this country desires continuation of racial identity. It resists intermixture. I grant, however, that there are some Negroes—a part of the Hon. Robert H. Porter's 1,132,000 "colored people"—who are trying to get away from the Negro race.

We are told that if the Negro will get property, the problem will be solved. One orator declares that when a Negro gets what the white man wants—when a Negro gets a mortgage on a white man's farm—no one will bother him about voting. Now all this is just what I fear—this *battle over the loaf*. A casual retrospect of history tells me that the hard point in Negro life in America will not be reached until the Negro has to struggle with his white brother over the loaf. So far, we have had only a few skirmishes; and our losses in former bread-earning positions are not yet fully compensated by the new positions demanded by our new conditions as free men. What will be the result with increasing population and competition and with fiercer conflict? Will the conflict come? "I do not believe it will," says one. "I have faith in the upward tendency of the spirit of universal brotherhood," says another. There were those who expressed similar sentiments thousands of years ago; and still the world has gone on in the same old, hard, cruel way in solving its race problems. It has never changed at a single period in its history. Dollars never solve problems. They are as powerless in this as armies and navies. Problems are born in the souls of men, and, if solved at all, must be solved there.

Religion, it is claimed, will settle all these vexing matters. What is the record of religion on this question? Has it ever settled them? Christianity, as interpreted by races struggling for ascendancy, has been on trial for nearly two thousand years. What is the record? Do not men accommodate their religion to their prejudices? I admit that Jesus Christ is the perfect moral idea. Russia proclaims His peace principles, while in practice she strengthens her army and prepares for war. The world has never invented, nor has it had revealed to it, a religion which, as interpreted by ambitious men, has ever settled any phase of a race problem.

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It is urged that if the Negro will stay out of politics, the Race problem will be solved! Whether he stays out or not has no bearing upon its ultimate solution. Whether he affiliates with Republicans or Democrats or any other political party, will not solve it. Political silence may remove the question a little *in time*. Meanwhile the gentle zephyrs will change to tornadoes, and, aggravated by the schoolroom and the struggle for wealth, will return with more deadly results. I have voted with the Democracy of the South for twenty-two years; and if every other Negro in the country had done the same, we should still have the same Race problem. I have advised, and now practise, political silence; but I know that such a course will not settle the question. The Negro will not go out of politics as long as he has the privilege to vote. If he desired to do so, white men, for personal gain, would drag him in. The genius and spirit of our government, as well as the ambition of the Negro, give him zest for politics. The Negro has political ambition, and ought to have it. It is a credit to him. If he had no such ambition, I should have no faith in his capacity to grow and take on civilization. He must vote and take part in government, or become a worthless, dangerous incubus on society. The Negro, trained and educated by the white man, has the same ambition and aspirations as the white man; and nothing but the white man's overshadowing competition and power can prevent the Negro from attaining his highest ideals. Having this capacity and ambition, these high aspirations, and feeling proud of his race, he enters into competition. These noble characteristics, these manly virtues, themselves will hasten and intensify conflict and, as I see it, the Negro's destruction.

I have said that the solution of the problem does not rest with the Negro. He has fulfilled every condition of civilization. He is a fervent, long-suffering, forgiving Christian. He is every man's friend. Every man is welcome to his humble cabin and to the best he has in it. He is a non-striker, a jolly, docile laborer, a loyal, sober, industrious citizen,—and a brave soldier. He has added much to the material, moral, and intellectual South since the War, as the following epitome of facts shows:

He has reduced his illiteracy 45 per cent in thirty-five years. Negro children in the common schools number 1,500,000; Negro students in higher institutions, 40,000; Negro teachers, 30,000; Negro students learning trades, 20,000; Negro students pursuing classical courses, 1,200; Negro students pursuing scientific courses, 1,200;

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Negro students pursuing business courses, 1,000; Negro graduates, 17,000. There are 250,000 volumes in Negro libraries; 156 Negro higher institutions; 500 Negro doctors; 300 books written by Negroes; 250 Negro lawyers; 3 Negro banks; 3 Negro magazines; and 400 Negro newspapers. The value of Negro libraries is $500,000; of Negro school property, $12,000,000; of Negro church property, $37,000,000; of 130,000 Negro farms, $400,000,000; of 150,000 Negro homes, besides farms, $325,000,000; and of Negro personal property, $165,000,000. Since the War the Negro has raised for his own education $10,000,000.

The friends of the Negro should not be ashamed of this record; and if he has any enemies, they surely must admire the battle which he has fought and won for himself and for the South. If we turn on the light of the Eleventh Census we find that:

1. Negroes are more eager for education than whites. The whites enrolled 14 per cent of their population in 1870, and only 22 per cent in 1890; the Negroes, 3 per cent in 1870, and 19 per cent in 1890.

2. The whites have 9 criminals to every 10,000 of their population; the Negroes, 33 to every 10,000. But the whites have 100 to 1 in educational advantages, have the entire machinery of the courts in their hands, and 100 chances to 1 to evade the law and to escape punishment.

3. Whites and Negroes each have 8 paupers to 1,000 population; while the whites are 64 to 1 in wealth, and 100 to 1 in good paying positions.

4. The Negroes die twice as fast as the whites; but the whites have greater comforts, and many advantages as regards skilled medical attention.

5. The whites have .61 of 1 per cent divorces; Negroes, .67 of 1 per cent. The whites have 2,000 years' advantage in civilization.

6. In the whole country there are 25 Negroes to 75 whites who own their homes: the proportion should be 1 Negro to 6 whites.

7. Of the Negro homes, 87 per cent are freeholds; of the white homes, but 71 per cent.

8. Of farms owned by Negroes 89 per cent are unencumbered; of those owned by whites, but 71 per cent.

9. Forty-one per cent of Negroes are engaged in gainful pursuits; while only 36 per cent of whites are thus engaged.

10. Government reports show that the Negro is the best soldier in the regular army.

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But why present this evidence of Negro fitness for civilization? Why dig up the Census comparisons, to the disparagement of the white man? These things have no salutary influence upon the Race problem. They rather irritate the matter. They mean competition and combat, into which every differentiation of racial characteristics will be made to play a hurtful part.

The Negro should no longer deceive himself, nor suffer himself to be deceived, about Northern sympathy. Judge Tourgee, a few years ago, declared that the white men in this country who favor absolute justice, complete civil rights, and fairness in all things for the Negro, would not reach ten thousand. The average Northern politician of to-day is no more like Sumner or Lincoln or Phillips or Garrison than the mummy of Rameses II is like the real old king himself. The whites prate about constitutional liberty and civil rights while they shut out the Negro from the best means of gaining a livelihood, even mob him, and the President himself says that he cannot prevent white men from whipping Negroes from offices, destroying their property, and driving them from communities. Why continue this hypocritical farce of Dr. Jekyll and Mr. Hyde?

The Negro must just take his chances. That is all. When the old, gray-haired veterans who followed Gen. Lee's tattered banners to Appomattox shall have passed away, the Negro's best friends will have gone; for the Negro got more out of slavery than they did. "Now there arose up a new king over Egypt, which knew not Joseph."

Let the Negro lay aside his delusions and dreams, and recognize the terrible, stern reality of the situation. Whether North, South, East, or West be his ambition, his aspirations are chained to a stake, are circumscribed by Anglo-Saxon prejudice and might: his movements are circular. If he leap upward, it is only as the tide in its frantic and futile endeavor to reach the moon. If education, wealth, religion, cannot solve the question, then what can? There is no solution except (1) in complete surrender of racial pride and ambition; (2) in absorption by the very worst element of whites; or (3) in voluntary or involuntary deportation. I do not deny that there are and will be individual exceptions; but I am speaking of races, not individuals.

We have the rise and decay of nations pointed out; and we are told to stand still and wait upon the salvation of the Lord. Yesterday I heard the sound of martial strains. I looked, and saw the proud

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"Mistress of the world" in holiday attire celebrating the triumphant return of a Cæsar, leading three hundred kings among his captives. This morning I heard a requiem. I looked. The conquering Cæsar had turned to clay, the once invincible legions were rotting and their bones bleaching upon a thousand battle-fields. Rome had her toes turned toward the blue skies; and the barbarian was beating his tom-tom and dancing upon her lifeless bosom. Still race problems remain. The facts in our case to-day are steadfast.

This is a hard view. I know that there are thousands of kind souls—good-feeling, God-fearing white men and women in the North—who will throw up their hands in horror at these statements. But the facts remain the same. I know that there are thousands of noble and generous white men and women in the South who will be thrown into hysterical recitations of the virtues of countless "black mammas" and "Uncle Jims." But the facts are still stubborn. I know that fifty thousand Negro professors and ministers are on their feet at this minute, hurling anathemas of excommunication from the race,—aye, condemning to eternal exile "any person who has so little faith in the ultimate triumph of Christian tendencies toward the unification of all races on the American continent designed by God for the purpose." But, like *Banquo's* ghost, the facts will not down.

The Negro, I say again, may just as well understand, as President McKinley has said, that he is "not to attempt the unattainable," or he will be broken, shattered, destroyed, in proportion to the intensity of his attempt at President McKinley's "unattainable." Let him, without thought of solving this problem, go right on, educating himself in all the essential principles of the highest Christian civilization that he can get hold of, making of himself a polite, law-abiding, peaceful, industrious, dignified man, full of honor and integrity, *in his own sphere*, and he will have fulfilled what seems to be the highest law of being; and in God's eyes no race can climb higher. That people who have thrown into the world the best thoughts of divine truth,—the Jews,—have had their problem for forty or more centuries. They have suffered most, but have helped the world most. As freemen, they taught spiritual truth and right-doing as no other people have done. As slaves, they built the enigmatical pyramids and weird sphynx, constructed the wonderful walls and hanging gardens, and the gigantic coliseum. While they are not supreme in any nation, they are a power in all, and maintain their identity, personality, and integrity everywhere.

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So far as the solution of the Race problem on American soil is concerned, I have presented, above, a very pessimistic view—as some people count pessimism. Yet to me, it is an iridescent picture. No sick man is likely to call in a physician until he feels the need of such assistance. Until he feels such need, he is in real danger; but the moment he recognizes his true condition, his danger is lessened.

Senator Morgan's ideas about repatriation, cruel and hard as they appear, seem to me to point to a glorious destiny for the Negro. Anglo-Saxon prejudice is but the voice of God calling to the Negro to arise, and go and make himself a people. Bishop Turner is looking through the telescope of prophecy, a hundred years ahead of us all, when he declares that he does not see any future for the Negro in America. I do not think, however, that there will be any wholesale emigration; for the present Negro is doubtless here to stay,—and it may be providential that he is. It requires a somewhat different Negro to settle and graft a new civilization in a foreign land. But the next few generations will see a Negro with views as far different from the views of the Negro leaders of to-day as day is different from night. There will be no statutory laws oppressing the Negro, no disposition by legal sanction to drive him from the country; *and yet he will go.* His own pride, the desire to redeem Africa from its darkness, and, last, the allurements of a thousand superior advantages for mental and material gain, to be attained through hardship and adversity, will be irresistible. He will no longer, as now, look for easy highways to success. This will check increase and, in a bloodless, natural way, solve the problem, which the pride and greed of the Anglo-Saxon race can never do.

The cultivation of the strongest, most manly traits of character by the present Negro will put into those future generations that which alone can make the desert blossom and the waste places rejoice, just as Luther, Zwingli, Melanchthon, and Calvin, one or two centuries in advance, moulded the manhood which conquered savage man and beast, and blessed the bleak shores of New England with a grand civilization.

W. H. COUNCILL.

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INTERNATIONAL LAW IN THE LATE WAR.

THE war between the United States and Spain practically ended with the signing of the protocol suspending hostilities. The contest continued less than four months. It cost Spain a colonial empire, and advanced the United States to the position of a World-Power. This was accomplished, as President McKinley informed Congress, without the loss, on the part of the United States, of a gun, a flag, a transport, or a ship. Less than three hundred men were killed in battle on the American side. History will record the war as being among the most remarkable of which mention is made.

The student of naval science finds this war instructive as answering many of the questions he has been asking concerning modern warships; and it helps him to a solution of some of the perplexing problems of naval warfare. It has taught him the value of burning powder in target-practice, and that scientific training is essential, if the guns of the ships are to be effectively handled. The student of military science has learned that it is necessary to reorganize the military service of the United States; and the task has been imposed upon him of finding out how troops can best be fed and cared for in tropical countries. The student of international law is interested in every war. His science is involved in it from the time a war commences until a treaty of peace is signed. The greater part of international law relates to belligerents and neutrals. It is to this phase of the matter—the international law questions incident to the war—that the attention of the reader is here directed.

The first question we shall consider is whether the war was justifiable according to international law. In order to answer this question, it is necessary to consider why the United States engaged in the war. Congress passed resolutions, April 19, 1898, declaring

"1. That the people of the island of Cuba are, and of right ought to be, free and independent.

2. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

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3. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such an extent as may be necessary to carry these resolutions into effect.

4. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof; and asserts its determination, when that is accomplished, to leave the government and control of the island to its people."

These resolutions denied the right of a sovereign state to rule its own dependency in its own way. They proposed to sever absolutely all connection between the mother-country and its colony. Force was to be employed to accomplish this result. This meant a war of intervention. The reasons which the United States assigned for taking this action were stated by the President, in a Message he sent to Congress on April 11, 1898, as follows:

"1. In the cause of humanity and to put an end to the barbarities, bloodshed, starvation, and horrible miseries now existing there, and which the parties to the conflict are either unable or unwilling to stop or mitigate. It is no answer to say this is all in another country, belonging to another nation and therefore none of our business. It is specially our duty; for it is right at our door.

2. We owe it to the citizens of Cuba to afford them that protection and indemnity for life and property which no government there can or will afford, and to that end to terminate the conditions that deprive them of legal protection.

3. The right to intervene may be justified by the very serious injury to the commerce, trade, and business of our people, and by the wanton destruction of property and devastation of the island."

There are few questions that are more difficult than those which relate to the legality of interventions. Modern international jurists are not agreed as to the right of one nation to intervene in the affairs of another upon humanitarian grounds. Heffter, the leading German authority, denies the right of intervention to repress tyranny, but holds that as soon as civil war has broken out a nation may assist either party engaged in it. Calvo, the greatest of modern writers on international law, expresses the opinion that states can intervene to put an end to crimes and slaughter. Fiore concurs in that opinion; but Mamiani does not. Hall, the best known of English writers, says:[1]

"International law professes to be concerned only with the relations of states to each other. Tyrannical conduct of a government towards its subjects, massacres and brutality in a civil war, or religious persecution, are acts which have nothing to do directly or indirectly with such relations. On what ground then can international law take cognizance of them? Apparently on one only, if indeed it be competent to take

[1] HALL on International Law, p. 286, §92, 3d edition.

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cognizance of them at all. It may be supposed to declare that acts of the kind mentioned are so inconsistent with the character of a moral being as to constitute a public scandal, which the body of states, or one or more states as representative of it, are competent to suppress. The supposition strains the fiction that states which are under international law form a kind of society to an extreme point; and some of the special grounds, upon which intervention effected under its sanction is based, are not easily distinguished in principle from others which modern opinion has branded as unwarrantable. To some minds the excesses of a revolution would seem more scandalous than the tyranny of a sovereign. While, however, it is settled that, as a general rule, a state must be allowed to work out its internal changes in its own fashion, so long as its struggles do not actually degenerate into internecine war, and intervention to put down a popular movement or the uprising of a subject race is wholly forbidden, intervention for the purpose of checking gross tyranny or of helping the efforts of a people to free itself is very commonly regarded without disfavor."

Walker, an English writer (1895), lays down the principle as follows: "The requirements of self-defence furnish the only legally sufficient ground for foreign intervention." Lawrence, likewise writing in 1895, makes the following statement:[1]

"It is only when a state intervenes to preserve itself from some grave and imminent danger that we can regard its action as beyond the scope of criticism. In the opinion of some writers, interventions undertaken on the ground of humanity, and interventions for the purpose of putting a stop to religious persecutions, are also legal. But we cannot venture to bring them within the ordinary rules of international law. It certainly does not lay down that cruelty on the part of a government renders it liable to be deprived of its freedom of action, nor does it impose upon states the obligation of preventing either ordinary barbarity on the part of their neighbors or that special kind of inhumanity which takes the form of religious persecution. At the same time, it will not condemn such interventions if they are undertaken with a single eye to the object in view and without ulterior considerations of self-interest and ambition."

When Great Britain, France, and Russia intervened to establish the Kingdom of Greece in 1827, they justified their action by alleging

"the necessity of putting a stop to the effusion of blood in a struggle which, while it reduced the Greek provinces and islands to a state of anarchy, daily caused fresh impediments to the commerce of Europe, and gave opportunity for acts of piracy, which not only exposed the subjects of the Powers to grievous losses, but rendered necessary onerous measures of surveillance and suppression."

If these reasons constituted a legal ground for intervention as between Turkey and Greece, there can be no question but that the reasons assigned by President McKinley for interfering between Cuba and Spain furnish an equally tenable ground. But, whether the intervention in Greece was permissible or not, under international law, the fact remains that it was approved at the time and has been since

[1] LAWRENCE on International Law, p. 119, §79.

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by the civilized world. That history will render a similar verdict as to the intervention of the United States in Cuba, there is no reason to doubt. Whether future writers on the law of nations pronounce judgment in favor of the legality of the intervention or not, they certainly will declare that the intervention was morally blameless.

It is to be observed that this was the first time in history that the United States ever entered upon a war of intervention, and that it constituted a departure from its traditional policy of non-interference in the domestic affairs of foreign states. In 1828 Mr. Clay, then Secretary of State, said: "The Government of the United States scrupulously refrains from taking part in internal dissensions, whether in the Old World or the New." In 1829 Mr. Van Buren, who had succeeded Clay as Secretary of State, declared: "It is the ancient and well-settled policy of this Government not to interfere with the internal concerns of any foreign country." In 1864 Mr. Seward, then Secretary of State, said:

> "The United States leaves to the government and people of every foreign state the exclusive settlement of their own affairs and the exclusive enjoyment of their own institutions. Whatever may be thought by other nations of this policy, it seems to the undersigned to be in strict conformity with those prudential principles of international law—that nations are equal in their independence and sovereignty, and that each individual state is bound to do unto all other states just what it reasonably expects those states to do unto itself."

The Monroe Doctrine did not threaten interference in the internal affairs of states. President Monroe simply gave notice to certain European states, constituting the Holy Alliance, that they would not be allowed to reëstablish the power of Spain in the South American republics. This was really in defence of the right of states to manage their own affairs without outside interference. In announcing this doctrine, Monroe violated no principle of the law of nations. It is certainly not illegal for one state to intervene to prevent the illegal intervention of a third. Mr. Monroe added that the American continents were not "henceforth to be considered as subjects for future colonization by any European Powers." But this also had to do with the foreign and not the domestic policy of states.

The resolutions of intervention, as they originally passed the Senate, recognized "the Republic of Cuba as the true and lawful government of that island." The House, by a vote of 310 to 6, declined to indorse this proposition, and the Senate reluctantly, by a vote of 42 to 35, consented to its being stricken out. It was well understood

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that President McKinley was determined, as was his predecessor Mr. Cleveland, to prevent any recognition of the Cuban Government. They did not believe that Government to have sufficiently established its authority to entitle it to any recognition. Mr. Cleveland and Mr. McKinley were also of the opinion that the recognition of a foreign state did not pertain to Congress, but was a question for the Executive. The writer is convinced that their position was sound on each of these questions.

It is not without interest that the war began with a formal declaration. On April 25, 1898, the President sent a Message to Congress recommending the adoption by that body of a joint resolution, declaring that a state of war existed between the two Governments. Both houses met at noon, as usual; and the Message was received shortly thereafter. In each House it was at once referred to the Committee on Foreign Relations. The same day these committees reported to their respective Houses a Bill declaring war. It passed both branches of Congress unanimously, and was received by the President at the White House at six o'clock in the evening of the same day. Eighteen minutes thereafter the President had affixed his signature, and the Bill had become a law. For the second time in the history of the Government the Congress of the United States had made a formal declaration of war. The other declaration was the one made in the war of 1812. In 1846 President Polk sent a Message to Congress stating that "war already exists" by the act of Mexico: Congress at once responded by voting men and money to carry it on. In the war with Spain the declaration was as follows:

"1. That war be and the same is hereby declared to exist and that war has existed since the 21st day of April, A.D. 1898, including said day, between the United States of America and the kingdom of Spain.

2. That the President of the United States be and he hereby is directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such an extent as may be necessary to carry this act into effect."

Spain avoided a direct declaration. On April 24 that Government declared: "Diplomatic relations are broken off between Spain and the United States; and the state of war being begun between the two countries," etc. This was in accordance with the precedent of Turkey in the war with Greece in 1897. The Sultan then announced that "a state of war exists in Thessaly and in Macedonia."

International law writers have discussed the question whether a

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war can be legally commenced without a formal declaration. The history of international practice shows that in earlier times a formal declaration was deemed essential. Modern writers on the subject, however, are inclined to the opinion that a declaration is unnecessary. Hautefeuille and a few others have held to the earlier doctrine. But Wheaton—and the English and American writers agree with him—lays it down that no declaration is necessary. The history of the subject shows that the Greeks and Romans regarded a formal declaration as essential, and that the states of modern Europe held the same doctrine until about the middle of the seventeenth century. In the earlier part of the eighteenth century the practice of making a formal declaration was almost entirely abandoned. Maurice, in his "Hostilities without Declaration of War," states that there have been only eleven formal declarations since 1700; whereas the present century has seen over sixty wars commenced without notice. While international law does not require that formal notice be given to the Power attacked, there certainly appears to be a disposition to return to the earlier practice. The action of the United States, in issuing a formal declaration, accords with the recent practice of states. In the war between Japan and China a formal declaration was made by both parties. In the war between Russia and Turkey in 1877–78, a declaration of war by Russia was handed to the Turkish minister at St. Petersburg. In 1870 France issued a formal declaration of war against Prussia, and, through the French *chargé d'affaires* at Berlin, communicated it to Count Bismarck.

At the beginning of the late war Mr. McKinley issued a Proclamation declaring that throughout the conflict the United States would govern its conduct according to the principles laid down in the Declaration of Paris. At the same time, Spain announced that she would conform to all the articles contained in that document with the exception of the one relating to privateering. On that subject it said:

> "The Spanish Government, upholding the right to grant letters-of-marque, will at present confine itself to organizing the vessels of the mercantile marine, a force of auxiliary cruisers, which will coöperate with the navy according to the needs of the campaign, and will be under naval control."

This was something in the nature of what Germany proposed in the war with France in 1870, and which the latter Power claimed as a violation of the Paris Declaration—a claim which has given rise to differences of opinion on the part of writers upon the law of nations.

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However that may be, Spain did not commission privateers; and the reservation of her right to do so was originally made with the intention of possibly resorting to them later on in the struggle, if the circumstances of the war seemed to indicate that it would be wise to do so. Spain also announced that she would regard and judge as pirates, with all the rigor of law, all captains, masters, officers, and two-thirds of the crews of vessels which, not being American, should commit acts of war against Spain, even if provided with letters-of-marque issued by the United States. As the United States had no intention of issuing any letters-of-marque, Spain's declaration on this point was merely *brutum fulmen*.

This war, therefore, affords another instance in which states not bound by the Declaration of Paris have observed its principles. That Declaration, made in 1856 at the end of the Crimean War, contained the following announcements:

"1. Privateering is and remains abolished.
2. The neutral flag covers enemy's goods with the exception of contraband of war.
3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.
4. Blockades in order to be binding must be effective."

At the time this agreement was made, the law of nations permitted privateering. As Mr. Marcy, then Secretary of State, said, the right to resort to privateers was "as clear as the right to use public armed ships and as incontestable as any other right appertaining to belligerents." It is also true that at that time the neutral flag did not cover the enemy's goods. All the decisions of the English and American courts were against the doctrine. But Article 3 of the Declaration announced a principle which the Supreme Court of the United States, in 1815, had recognized as a binding part of the law of nations.[1] The importance of that article was due to the conflicting practice of some of the European states, a number of them having negotiated treaties which provided that enemy ships made enemy goods. Article 4 also stated a principle which the United States had claimed to be already the law of nations. In 1850, four years prior to the Declaration of Paris, the American Secretary of State, Mr. Clayton, used language almost identical with that of the Declaration. "A blockade," he said, "to be valid under the law of nations, must be efficient." And as early as 1803 Mr. Madison said: "The law of nations requires, to constitute a blockade, that there should

[1] The Nereide, 9 Cranch, 388.

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be the 'presence and position of a force rendering access to the prohibited place manifestly difficult and dangerous.'" The statement as to blockades contained in the Declaration was simply an abandonment of an illegal doctrine upon which some of the European states had at one time assumed to act when they asserted that a mere proclamation sufficed to establish a blockade without the presence of a force to make it effective. In so far as the Declaration of Paris assumed to alter the existing law of nations it bound only the nations that assented to it. It did not profess more; for it concluded thus: "The present declaration is not and shall not be binding, except between those Powers who have acceded or shall accede to it."

Mr. Seward, in discussing the matter as long ago as 1861, stated that at that time forty-six sovereign states had already become parties to the Declaration. It so happens that neither the United States nor Spain ever acceded to it. The only other states of any prominence which have not done so are Mexico and China. The assent of the United States was withheld because of her unwillingness to surrender the right of privateering so long as private property at sea remained liable to capture. When the invitation to the United States to accede to the Declaration was received, Mr. Marcy, as Secretary of State, expressed the willingness of the Government to accept the same, provided the following words were added to the first article: "and that the private property of the subjects or citizens of a belligerent on the high seas shall be exempted from seizure by public armed vessels of the other belligerents, except it be contraband." The proposed amendment did not prove to be acceptable. The fact is, however, that, while the United States has never become a party to the Declaration, she has observed faithfully the principles it declared, as well during the war of 1861–65 as in the war with Spain. It is significant also that Spain governed her conduct according to the same principles, and that in the war between China and Japan, each of these nations did likewise, although China was a non-signatory.

One of the limitations which international law imposes upon neutral commerce is the prohibition of trade in goods that are contraband of war. A neutral state is not bound to forbid its subjects to carry on trade in contraband articles; but those who engage in such trade do so at the risk of having the property confiscated by the enemy, provided the goods are destined for an enemy's port or fleet. A neutral may trade with another neutral in articles that are contraband. It is only when the articles are intended for the enemy that

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the trade becomes illegal, and the right to confiscate attaches. If they are destined for the enemy, the right to capture them at sea, although transported in a neutral ship, cannot be disputed. At the same time, the question of what is contraband of war is one of the most unsettled in the whole field of international jurisprudence. There are certain articles about which there is no dispute. These are the things which are adapted and designed for hostile use, such as arms and ammunition; and they are regarded by all nations as absolutely contraband. There are certain other articles which are not exclusively adapted to hostile use, but may be used indifferently for war or peace according to circumstances. These are held in England and in the United States to be conditionally contraband. If they are to be consumed by non-combatants, they are not contraband; if by combatants, they are. If they are destined for the enemy's fleet, or are to be carried to a place where his army is encamped, they are subject to confiscation.

The dispute over what is contraband and what is not lends interest to the "Instructions to Blockading Vessels and Cruisers," issued by the Navy Department to the warships of the United States, June 20, 1898. These "Instructions" were prepared by the Department of State, and constitute General Order No. 492 of the Navy Department. This order declares that the term "contraband of war" comprehends only articles having a belligerent destination, as to an enemy's port or fleet. It classifies articles that are contraband as "absolutely contraband" and "conditionally contraband." Under the designation "absolutely contraband," it names:

"ordnance; machine-guns; armor-plate; arms and instruments being specially adapted for use in war by land or sea; torpedoes and their appurtenances; cases for mines; gun-carriages; caissons; cartridge-boxes; campaigning-forges; canteens; pontoons; ordnance stores; portable range-finders; signal flags for naval use; ammunition and explosives of all kinds; machinery for the manufacture of arms and munitions of war; saltpetre; military accoutrements and equipments of all sorts; and horses."

Under the designation "conditionally contraband" we find:

"coal, when destined for a naval station, a port of call, or a ship of the enemy; materials for the construction of railways or telegraphs, and money, when such material or money is destined for the enemy's forces; and provisions, when destined for an enemy's ship or ships, or for a place that is besieged."

The articles classed above as absolutely contraband, with one possible exception, would be so regarded in the prize courts of the civilized world. There may be some difference of opinion whether horses should

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be regarded as absolutely contraband. The British "Manual of Naval Prize Law," prepared in 1888 by Prof. Holland, of Oxford, treats them as only conditionally contraband. While they may be used for artillery, for cavalry, and for transport, they may also be employed for agricultural and other peaceful purposes. Hall states that "As between countries on the same continent, horses are usually regarded as contraband." The policy of the United States, as shown in the treaties she has negotiated, has been by no means uniform. Horses are included as contraband in the treaty with France, of 1788; in that with the Netherlands, of 1782; with Sweden, of 1783; with Spain, of 1795; with Brazil, of 1828; and with Bolivia, of 1858. They are not included in that with Great Britain, of 1794; with Prussia, of 1799; with France, of 1800; and with Italy, of 1871.

The articles classed as conditionally contraband by the United States in the "Instructions" to the navy are also so classed in the British "Manual" already mentioned. We are obliged to admit, however, that the nations of Europe are not all agreed in so regarding them. Take the item of coal, which our State Department classes as conditionally contraband. The Government of the United States has not always so considered it. The British Government, as a belligerent in the Crimean War, and as a neutral in the war between France and Piedmont in 1859, announced that it would regard coal as conditionally contraband. At that time, Mr. Cass, as Secretary of State, repudiated the doctrine; saying, "the United States avow their determination to oppose it so far as their vessels are concerned." In 1885 Mr. Kasson, the American minister at Berlin, writing to the Secretary of State, Mr. Bayard, says: "The United States and other countries have hitherto refused to recognize coal as contraband of war, indispensable as it is to the equipment of war steam cruisers, because its chief use is for peaceful objects." France in 1859 and again in 1870 declared that coal could not under any circumstances be regarded as contraband. Russia is also definitely pledged to the same doctrine, as are a number of the less important European states. In the war with China in 1894, Japan regarded coal as contraband. It is evident that a decided conflict of opinion exists as to this item.

Take another, that of provisions. In the war between England and France, at the close of the last century, the former Power seized all ships bound to a French port, which were laden with provisions. Thereupon, Sir Henry Maine says, "The United States issued a series of vehement protests against the assumption of the contraband char-

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acter of provisions in any circumstances." That the Government of the United States denied the right of Great Britain to treat provisions as contraband under all circumstances, would be a better statement of the facts. When did the United States deny the right to treat provisions as contraband, provided they were destined for an enemy's ship, or for a besieged place? As early as 1816 the Supreme Court of the United States, in the case of the "Commercen,"[1] laid down the law as follows:

"By the modern law of nations provisions are not, in general, deemed contraband, but they may become so, although the property of a neutral, on account of the particular situation of the war, or on account of their destination. If destined for the ordinary use of life in the enemy's country they are not, in general, contraband; but *it is otherwise if destined for military use. Hence, if destined for the army or navy* of the enemy, or for his ports of naval or military equipment, they are deemed contraband."

During the late war, the Americans cut the cable connecting Manila with Hong Kong, and the French cable in Cuban waters off the port of Caimanera. This was at once denounced, by the French press especially, as unwarranted by the law of nations, and as being a positive violation of the rules of modern warfare. The charge is absolutely groundless. A belligerent certainly cannot be denied the right to prevent his enemy from communicating with the outside world. The suggestion has been often made that ocean cables should not be interfered with in time of war, but should be neutralized by agreement of the nations. President Buchanan made such a suggestion as early as 1858, when the first Atlantic cable was laid. In his reply to Queen Victoria's message of good-will Mr. Buchanan said:

"Will not all nations of Christendom spontaneously unite in the declaration that it [the cable] shall be forever neutral, and that its communications shall be held sacred in passing to their places of destination, even in the midst of hostilities?"

But this agreement, which Mr. Buchanan thirty years ago supposed the nations would so spontaneously enter into, does not yet exist.

The war with Spain is the first war, so far as the writer is aware, in which a belligerent has found it necessary to cut an ocean cable. That the cables were likely to be so interfered with appeared probable at the very outbreak of hostilities. Mr. Balfour was questioned on the subject in the British House of Commons as early as April 26, the day after the United States declared war. He replied that he was not prepared to deny that belligerents, on the ground of military

[1] WHEATON, 382.

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exigencies, would be justified in interfering with the cables. A few days later, on May 2, Dewey had cut the Manila cable.

The nations have a convention for the protection of submarine cables, which was entered into in Paris in 1884, and ratified and proclaimed in 1885. The United States and Spain are among the signatory Powers. That convention, however, simply provides protection for cables in time of peace. In Article 15 it is expressly stated that "It is understood that the stipulations of this Convention shall in no wise affect the liberty of action of belligerents." But it is interesting in this connection to recall that in 1869 the United States proposed the neutrality of cables in time of war, and called a conference to meet at Washington. But before the conference could be held the Franco-Prussian War occurred; and the meeting had to be abandoned. The Italian Government subsequently sounded the Powers; and it was found that it would be impossible to secure their assent to neutralization. In 1864 an attempt was made to lay an Atlantic cable; and at that time France, Italy, Portugal, and one or two other states actually entered into an agreement for its protection in war as well as peace. The effort to lay that cable failed: with the failure the treaty lapsed.

Wars of importance usually give occasion for complaint, either that neutrals have failed in some way to observe their obligations respecting belligerents, or that belligerents have violated the rights of neutrals. The failure of Great Britain, when a belligerent, to respect neutral rights led to the armed neutrality of 1780 between Russia, Sweden, Denmark, and other of the Continental Powers, and to that of 1800. The failure of that Power, when a neutral, to discharge its obligations to a belligerent in 1861–65 almost led to war with the United States; while the failure of the same Power to respect neutral rights actually occasioned the war of 1812. In any war which enlists the sympathy of a neutral state, it becomes more or less difficult to maintain strict neutrality. When the war with Spain began, almost every newspaper in Germany pronounced against the United States; and the sympathy of the nation was well understood to be anti-American. The "Frankfurter Zeitung" and "Die Nation" were not unfriendly; but they constituted notable exceptions. In France the anti-American spirit was even stronger than in Germany. It has been said, upon good authority, that early in the war, when the report reached Paris that the American fleet had been destroyed and Admiral Sampson killed, the Parisian populace was thrown into a

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paroxysm of delight. Notwithstanding all this, the attitude of Germany and France was absolutely correct throughout the war. In fact, the United States had no complaint to make against a single state for any failure to maintain the obligations of neutrality.

The nations have made a marvellous advance from the times when Grotius wrote that a nation was "to act alike to both sides" only in "a doubtful case." As the President told Congress in his Message of last December, "It is not among the least gratifying incidents of the struggle that the obligations of neutrality were impartially discharged by all, often under delicate and difficult circumstances." China has not been regarded as a member of the "Family of Nations"; never having accepted what is usually referred to as "the public law of Europe." It is noteworthy, therefore, that in this war with Spain, a proclamation of neutrality was made by China. Never before in its long history had the Celestial Empire issued such a proclamation.

President McKinley issued a Proclamation, April 26, in which he directed that Spanish merchant vessels, then in the ports of the United States, be allowed until May 21, inclusive, in which to load their cargoes and depart, and that if met at sea they be permitted to continue their voyage, if, on examination of their papers, it appeared that their cargoes were taken on board prior to the expiration of the time allowed them. The Proclamation provided

"that nothing herein contained shall apply to Spanish vessels having on board any officers in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage), or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government."

It also allowed any Spanish merchant vessel which, prior to April 21, had sailed from any foreign port bound for any port or place in the United States, to enter such port or place, and discharge her cargo, and afterward forthwith to depart without molestation. It directed that any such vessel, if met at sea by any United States ship, should be permitted to continue her voyage to any port not blockaded. Concessions of a like kind were made in the Crimean War in 1854, by France and Prussia in 1870, and by Russia and Turkey in 1877.

The Proclamation of the President granting the above exemption to merchant vessels is identical in language with the Order of Council issued by the British Government at the beginning of the Crimean War, except that in the latter case a longer exemption was granted, a period of six weeks being allowed. A hundred years ago nations were accustomed to seize merchant vessels of the enemy that happened

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to be in their port at the outbreak of war. But, if that policy should be pursued at the present day, it would be denounced as an outrage by every civilized state. Technically, a state may have the right to confiscate, at the outbreak of war, property belonging to the enemy subjects which may be found within its territory. The Confederate States exercised this right in 1861; but with that notable exception (the only one since the treaties of Vienna of 1815), it is so long since states have acted upon the right that it is questioned whether it can be regarded as still existing.

The Geneva Convention of 1864, which formulated the Red Cross rules for the amelioration of the condition of the wounded, and the neutralization of persons and things connected with the sick, had been acceded to by the United States in 1882, Spain being one of the original signatory Powers. The rules referred to, however, while obligatory upon both the United States and Spain, related only to warfare on land; the attempt made at the Geneva Convention of 1868 to extend them to war at sea having failed for want of the ratification of the nations. This being the situation, the Swiss Government, at the outbreak of the war, proposed to the United States and Spain that they adopt, as a *modus vivendi*, the additional articles of 1868 extending the Red Cross rules to warfare at sea. This proposal was accepted; and in applying these rules to war at sea Spain and the United States did precisely what was done by France and Germany in 1870.

At the beginning of the war Spain announced that all treaties with us were abrogated. Writers on international law, to be sure, are not agreed as to the effect of war upon treaties. There are those who insist that wars annul treaties, others that they simply suspend them, and still others that all treaties remain binding unless their terms imply the existence of peace. In so far as a treaty relates to a state of war, or cedes territory and fixes boundaries, war does not affect it, neither does such a declaration as that made by Spain. But Spain, by her declaration, abrogated her treaties of commerce, extradition, and trade-marks. It is usual in treaties of peace to provide for the revival or confirmation of the treaties previously existing between the belligerents. This was the case in the treaty of Vienna, in 1866, between Austria and Italy, and in the treaty of Frankfort, in 1871, between France and Germany. But no such stipulation is contained in the treaty of Paris ending the war between the United States and Spain.

HENRY WADE ROGERS.

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THE TREATY-MAKING POWER.

TRADITION has it that diplomacy is not a very respectable business for a democracy to engage in. It is popularly supposed to represent ways that are dark, and results not only uncertain, but inconsistent with the truth which should be the guide of those who are so favored by Providence as to live under the government of the whole. But even democracies, whose citizens travel and trade, are necessarily brought into contractual relations with other states.

The Fathers desired to have as little intercourse with their neighbors as was consistent with their own national well-being. As stated by Washington, "The great rule for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible." But from the first the wisest heads recognized the fact that independence could be won only with the assistance of some of the great traditional enemies of the mother-country. It was therefore necessary to open negotiations with Europe. The ordinary agencies through which established Governments conduct their foreign relations were wanting. The Revolutionary Congress took the first step toward the organization of a Department of Foreign Affairs in November, 1775, by resolving that a committee of five be appointed, "for the sole purpose of corresponding with our friends in Great Britain, Ireland, and other parts of the world." This committee was "to have charge of all foreign correspondence, prepare commissions and instructions for ministers going abroad, and communicate with the ministers and agents of the colonies in foreign parts." Thus began the diplomatic history of the United States, which, judged by results and not by style, has been one of glory for the Republic.

In April, 1777, the name of the committee was changed to "Committee of Foreign Affairs"; but no changes were made in its duties. By virtue of the simple resolution of November, 1775, this committee continued for more than five years to conduct the foreign affairs of the struggling Government. It had little to do beyond writing letters; and, not having the responsibilities of a Foreign Office, the

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duties which did fall to it were not properly performed. The members were constantly changing; and the general indifference and lack of method were felt with peculiar force by the representatives abroad. As early as 1780 Arthur Lee wrote in desperation that unless the Foreign Department was reorganized in such a way as to secure regular communication with ministers, nothing could be accomplished abroad. Finally, on January 10, 1781, Congress, by resolution, created the office of Secretary of Foreign Affairs.

The new Secretary was to have the custody of all papers relating to the business of the Department, receive applications from foreigners, correspond with the agents and ministers abroad, and perform the duties commonly falling to such an office. Seven months later the office was filled by the appointment of Robert R. Livingston, of New York. The Department was again reorganized during 1782, and the title of its head changed to "Secretary of the United States for the Department of Foreign Affairs." The treaty-making power, however, was retained by Congress; and only subordinate matters of detail were intrusted to the Secretary, who, for some time thereafter, was treated as a mere Congressional clerk.

Livingston found the office very unsatisfactory, and was soon driven into retirement by the inadequacy of the salary and by the indignities put upon him by meddling Congressmen. He finally resigned in December, 1782; and for some time the office was allowed to remain in the hands of the Secretary of Congress. After being vacant for nearly a year, it was offered to John Jay; but almost another year elapsed before he entered upon the active duties of the position. With Jay there came a change, and the dignity of the position was greatly increased. But even Jay, to his great indignation, found that his letters were frequently intercepted and read by Congress before they reached his office.

When important treaties were to be negotiated, special committees were appointed for that purpose. The ministers and representatives abroad were appointed and commissioned by Congress; and the duties and powers of the Secretary were confined to the drafting of their commissions and instructions.

The Articles of Confederation reserved to the States a large share of the taxing-power, but granted almost the entire treaty-making power to Congress. This was changed by the adoption of the Constitution in 1789. Article II, section ii, §2, of the Constitution provides that the President "shall have power, by and with the advice

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and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. . ."

Theoretically, there was to be a complete division of powers into executive, legislative, and judicial, each supreme in its own sphere. But the desire to provide a system of checks and balances made it impossible to work this out with even theoretical perfection. Exceptions were necessary; and the most important related to the making of treaties.[1] The Constitution provides that "*all legislative powers herein granted shall be vested in a Congress of the United States*, which shall consist of a Senate and House of Representatives," and gives Congress the express power

"*To make all laws* which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

This is clear enough. But the Constitution also says that the *President* "shall have power, *by and with the advice and consent of the Senate*, to make treaties," and declares that

"This Constitution and the laws of the United States which shall be made in pursuance thereof, *and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land*. . ."

Here is an evident conflict of grants. Congress is granted *all* legislative power; but the President and the Senate are also granted power to *make* treaties, which, like the Constitution and the laws of Congress, are expressly declared to be the *supreme law* of the land. It follows that the President and two-thirds of the Senate possess a certain measure of legislative power.

The Constitution does not attempt to regulate the manner of making treaties. The President, as the executive head of the nation, is charged with the conduct of its foreign affairs; and, under the established practice, only results of negotiations which ripen into a treaty are submitted to the Senate for its consideration. The language of

[1] Under date of June 14, 1789, Senator McClay made this entry in his diary: "My mind revolts in many instances against the Constitution of the United States. Indeed, I am afraid it will turn out the vilest of all traps that ever were set to ensnare the freedom of an unsuspecting people. Treaties formed by the Executive of the United States are to be the supreme law of the land. To cloak the Executive with legislative authority is setting aside our modern and much-boasted distribution of power into legislative, judicial, and executive. . . It certainly contradicts all the modern theories of government; and the practice must be tyrannical."

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the Constitution would seem to imply that the advice of the Senate should be taken pending the negotiations; and this, indeed, was the construction given it in the early days. Had it been adhered to, the Senate would have become what it was intended to be, an advisory council instead of a purely confirming or rejecting body. The attempt to obtain the advice of the Senate on a pending treaty is said to have been one of the occasions when the Father of his Country so far fell from grace as to indulge in profanity. John Quincy Adams records that, at a meeting of the Cabinet, Crawford told how President Washington had, at an early period of his administration,

"gone to the Senate with a prospective treaty to be negotiated, and been present at their deliberations upon it. They debated it, and proposed alterations; so that, when Washington left the Senate-chamber, he said he would be d——d if he ever went there again. And ever since that time treaties have been negotiated by the Executive before submitting them to the consideration of the Senate."

The Senate did not submit without protest to being thus deprived of one of its privileges. As late as January 24, 1842, Mr. Clay, in support of his resolution for an amendment to the Constitution, said:

"while there had been no such thing in practice as an encroachment by the Federal upon the State Government, there had been within the Federal Government itself a constant encroachment by the executive upon the legislative department. First, it attacked the treaty-making power. None could now read the language of the Constitution without at once coming to the conclusion that the intention of the authors of that instrument was that the Senate should be consulted by the President, not merely in the ratification, but in the inception of all treaties; that, in the commencement of the negotiations, in the instructions of the ministers appointed to treat, and in the character of the provisions of the treaty, the Senate should first be consulted and should first yield its consent. And such had, in fact, been the interpretation put upon the treaty-making power in the first and present years of our Government. Every one must recollect the early history of the exercise of this power, and of the high sanction of such a usage. The first President had been wont to come to the Senate, there to propose a foreign mission, and to consult with his constitutional advisers, the members of the Senate, on the instructions which should be given to the minister who should be sent. But this practice has been abandoned. The President now, without a word of consultation with the Senate, on his own mere personal sense of propriety, concludes a treaty, and promises to the foreign powers its ratification; and then, after all this has been done, he, for the first time, submits it to the Senate for ratification. Now, every one must see that there is a great difference between rejecting what had been already actually done and refusing to do that thing if asked beforehand. All must feel that they often gave their official assent to what they never would have sanctioned but for the consideration that the treaty was already concluded, and that the faith of the nation was already in some sort pledged for its ratification."

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But the practice of not consulting the Senate until after the treaty is signed is now established, though the President and the Department of State are supposed, when in political accord, to keep in close touch with the Foreign Affairs Committee of the Senate. In negotiating treaties, the President acts through the Department of State, or through commissioners specially appointed for the purpose, who are merely agents of the Executive.

Until ratified, a treaty has no binding force. The question of ratification has two aspects. Technically, it relates only to the ratification by the Senate; but, practically, there must be a previous acceptance of the treaty by the President. Ordinarily, if not universally, in these times of rapid communication, this is done before the document is signed. It is said to be a general rule that a sovereign is not bound to ratify the act of his representative, although a very good reason for failing to do so is required.

Logically, whatever has been stipulated by a diplomatic agent, in conformity with his full powers, ought to become obligatory upon the state from the moment of signing. But, not to expose the state to the mistakes of an agent, it has become a general maxim that public conventions do not become obligatory until ratified. The ratification cannot be refused with justice, unless he who is charged with the negotiation has exceeded his instructions, or the other party has refused to ratify. Spain refused to ratify the treaty of 1819, as it had the convention of 1802, except on condition that the United States would abandon the right to recognize the revolted colonies of South America. Secretary Adams argued that the obligation of the King of Spain in honor and in justice to ratify the treaty signed by his minister was as perfect and unqualified as the royal promise in the power, and gave to the United States a right equally perfect to compel the performance of that promise. Adams wrote to Mr. Lowndes, December 16, 1819:

"I have the honor to state that the President considers the treaty of the 22d February last as obligatory upon the honor and good faith of Spain; not as a perfect treaty (ratification being an essential formality for that), but as a compact which Spain was bound to ratify,—as an adjustment of the differences between the two nations which the King of Spain, by his full power to his minister, has solemnly promised to *approve, ratify,* and fulfil. This adjustment is assumed as the measure of what the United States had a right to obtain from Spain, from the signature of the treaty. . . "

President Monroe, in his third Annual Message, said:

"A treaty concluded in conformity with instructions is obligatory in good faith in all its stipulations according to the true intent and meaning of the parties. Each party is bound to ratify it. If either could set it aside without the consent of the

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other, there would no longer be any rules applicable to such transactions between nations. By this proceeding the Government of Spain has rendered to the United States a new and serious injury . . . which will justify any measure on the part of the United States which a strong sense of injury and a proper regard for the rights and interests of the nation may dictate."

The feeling in favor of reprisal was strong. But France and Russia tendered their good offices; and the treaty was finally ratified by Spain.

In the full powers of European Governments to their ministers, the sovereign usually promises to ratify what his minister does in his name. But, if the minister exceeds his instructions, *although they are unknown to the other party*, the sovereign is not bound to ratify his acts.[1] Upon this principle President Jefferson pigeon-holed the treaty negotiated by Monroe with England in 1807. Monroe signed a treaty which did not contain a provision against the imprisonment of seamen, and, in so doing, violated his instructions, and thus justified his Government in refusing even to submit the treaty to the Senate for consideration.

The powers of representatives of the United States are also restricted by the peculiar structure of the Government. Every Government contracting with the United States must take notice that, until approved by the constitutional majority of the Senate, a treaty is merely an inchoate and incomplete contract. It follows that the other party is free to withhold ratification until the treaty is ratified by the United States. Secretary Clay in 1825 wrote to Mr. Addington:

"The Government of His Britannic Majesty is well acquainted with the provision of the Constitution of the United States by which the Senate is a component part of the treaty-making power; and that the consent and advice of that branch of Congress are indispensable in the formation of all treaties. According to the practice of the Government, the Senate is not ordinarily consulted in the initiatory state of a negotiation; but its consent and advice are only invoked after a treaty is concluded under the direction of the President and submitted to its consideration. Each of the two branches of the treaty-making authority is independent of the other; whilst both are responsible to the States and to the people, the common source of their respective powers. It results from this organization that in the progress of the Government instances may sometimes occur of a difference of opinion between the Senate and Executive as to the expediency of a projected treaty. . . But it is not believed that there are any inconveniences to foreign Powers of which they can with propriety complain."

The constitutional right of the United States to acquire territory has been the subject of much discussion. It is based upon a liberal

[1] This is a controverted question. See WHEATON, Elem. B. 111, 2, §5 (Lawrence); WOOLSEY, "International Law" (6th ed.), §111.

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construction of the Constitution, and presupposes, what is no longer questioned, that the United States is a nation with the ordinary powers which inhere in a nation. The question is no longer of practical importance, and may be laid away with that long list of interesting issues which many good and shrewd people will always think should have been decided the other way.

The question originally arose under circumstances which tended to weaken the arguments on both sides. The natural positions of the political parties were reversed. The Federalists found themselves contending for a strict construction of the Constitution; and the Jeffersonian Republicans handled the discarded weapons of their enemies with the awkwardness of amateurs. Jefferson, with keen insight, recognized the importance of acquiring Louisiana, and, after much mental travail, decided to throw consistency to the dogs, and to trust to the future for his justification. There never was any question of the wisdom of his action. The trouble was, that he failed to realize the fact that academic theories must often be sacrificed in the growth of a great nation. Jefferson's friends and advisers were not troubled by his constitutional scruples. They were anxious to acquire the territory; and a few, like Gallatin and Wilson Cary Nicholas, thought that the old Federalist position was right. The latter wrote to Jefferson:

"Nor do I see anything in the Constitution that limits the treaty-making power, except the general limitations of the other powers given to the Government, and the evident objects for which the Government was constituted."

Gallatin wrote to Jefferson, January 13, 1803:

"To me it would appear (1) that the United States, as a nation, have an inherent right to acquire territory; (2) that whenever that acquisition is by treaty, the same constituted authorities in whom the treaty-making power is vested have a constitutional right to sanction the acquisition."

The President thought otherwise, but was willing to admit that the end justified the means. The Constitution was to be sacrificed in the house of its friends, but as little noise as possible was to be made about it. Jefferson wrote to Paine that the territory must be acquired, "but we should do *sub silentio* what shall be found necessary." To the Cabinet he wrote: "I infer that the less we say about constitutional difficulties the better; and that what is necessary for surmounting them must be done *sub silentio*." The proceeding suggests the modern politician who proposed as a motto for his organization, "Addition, division, and—*silence*."

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The Constitution of the United States, and laws made in pursuance thereof, and all treaties made under the authority of the United States, are declared to be the supreme law of the land; and the judges of every State are declared to be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. A State statute in conflict with a treaty is invalid. But a subsequent inconsistent Act of Congress supersedes a treaty, as they stand on the same plane of authority. The later in date prevails. A treaty is the equivalent of an Act of Congress, and has precisely the same legal value. Congress may thus, by a subsequent law, repeal parts of a treaty; and only the other party can complain of the infraction of the treaty.

By far the most serious questions in connection with the treaty-making power arise when a treaty, duly made and ratified, requires legislative action, such as the appropriation of money to meet an obligation created by it. The House of Representatives has no part in the negotiation of treaties: but no money can be appropriated without its consent; and it is still an unsettled question whether it can properly refuse to appropriate the money required to carry a treaty into effect. The controversy is as old as the Government. The first important treaty negotiated under the Constitution was Jay's treaty with England. It was very unsatisfactory to many of the people of the United States, and met with bitter opposition in Congress. The treaty was duly ratified by the Senate and proclaimed by the President, and the Proclamation communicated to Congress. Immediately upon its receipt, Livingston moved the following resolution:

"*Resolved*, that the President of the United States be requested to lay before this House a copy of the instructions to the minister of the United States who negotiated the treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to said treaty."

Upon this innocent resolution, containing a simple request addressed to the discretion of the President, arose one of the most memorable debates in the whole history of Congress. The Federalists, suspecting some ulterior motive, at once called for the reasons for asking for the documents. If it was intended to lay the groundwork for an impeachment they would agree to it; but they wished to know who was to be impeached—the minister who had negotiated the treaty, or the President, who had certainly had a principal agency in the business.

It was argued that the resolution, as it stood, was undeserving of

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support, as there was no declared object within the accepted recognizance of the House, and because it implied the very dangerous doctrine that the House had the right to adjudge, adopt, or reject treaties generally. They could conceive of no motive for calling for the papers, unless to gratify a feeling of resentment or a vain curiosity; and they would never sacrifice principle to these motives.

In reply to this resolution, Washington sent to Congress a special Message in which he said:

"Having been a member of the General Convention, and knowing the principles upon which the Constitution was formed, I have ever entertained but one opinion on the subject; and from the first establishment of this Government to this moment my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every treaty so made and promulgated thenceforward becomes the law of the land. It is thus that the treaty-making power has been understood by foreign nations; and in all the treaties made with them we have declared, and they have believed, that, when ratified by the President with the advice and consent of the Senate, they become obligatory. As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits in itself all the objects requiring legislative provisions, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request."

This unexpected Message produced something of a sensation in the House. Madison wrote to Jefferson that "the absolute refusal was as unexpected as the tone and tenor of the Message are improper and indelicate."

The answer of the House to the Message was as follows:

"*Resolved*, That it being declared, in the second section of the Constitution, that the President shall have power, by and with the advice of the Senate, to make treaties, provided two-thirds of the Senators concur, the House of Representatives do not claim an agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate upon the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon, as in their judgment may be most conducive to the public good."

The question next arose on the treaty with France of April 30, 1802, for the cession of Louisiana. Jefferson had always contended that whenever Congress in its legislative action was called upon to

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make appropriations to carry out a treaty, it had a full constitutional right to refuse its assent. In a letter to Madison, under date of March 21, 1795, he wrote:

"We conceive the constitutional doctrine to be, that though the President and Senate have the general power of making treaties, yet, whenever they include in a treaty matters confided by the Constitution to the three branches of legislation, an Act of legislature will be requisite to confirm these articles, and that the House of Representatives, as one branch of the legislature, are perfectly free to pass the Act or refuse it; governing themselves by their own judgment, whether it is for the good of their constituents to let the treaty go into effect or not. On the precedent now to be set will depend the future construction of our Constitution, and whether the powers of legislation shall be transferred from the President, Senate, and House of Representatives to the President, Senate, and Piomingo or any other Indian, Algerine, or other chief."

Jefferson's conduct was consistent with his theory. When asking for action on the French treaty, he took great care not to appear in any way to invade the power he had so fully recognized in 1795. He sent the necessary papers "for the consideration of Congress in its legislative capacity," or "for the exercise of their functions as to those conditions which are within the power vested by the Constitution in Congress." So far from assuming that the power would be exercised as a matter of course, he said: "You will observe that some important conditions cannot be carried into execution but with the aid of the legislature." The leaders had Congress well in hand; and the measures necessary for the execution of the treaty were passed without a reassertion of the right of independent action asserted at the time of the debate on Jay's treaty.

In 1816 the Senate passed a Bill to carry into effect the Commercial Convention of 1815 with Great Britain, which provided that so much of any existing law as might be contrary to the provisions of the convention should be of no effect. The House of Representatives passed a Bill enacting seriatim the provisions of the treaty. The Senate refused to concur, on the ground that the treaty was operative of itself, and that the Act should be declaratory only; while the House insisted that legislation was necessary to carry the treaty into effect. A committee of conference, of which Rufus King was chairman of the managers on the part of the Senate, and John Forsyth of those on the part of the House, finally agreed on a Bill, which was adopted. Mr. Forsyth stated the principle upon which this was effected as follows:

"Your committee understood the committee of the Senate to admit the principle contended for by the House, that, while some treaties might not require, others might

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require, legislative provisions to carry them into effect; that the decision of the question how far such provision was necessary must be founded upon the peculiar character of the treaty itself."

The understanding of the United States of the duty imposed by a treaty which calls for the payment of money is illustrated by the controversy with France which grew out of the failure of the Chamber of Deputies to provide for the indemnity to be paid the United States under the treaty of July 4, 1831. It is true that the claim was for money alleged to be long past due; but it is evident that Jackson rested the claim for immediate payment upon the obligation created by the treaty. The treaty adjusted the old spoliation claims, and provided for the payment of six million livres by France and the *modification by Congress of the duty on French wines*. Congress performed its part of the treaty; and the Secretary of the Treasury drew on the French Minister of Finance for the first instalment of the indemnity. The draft was refused payment, on the ground that the Chamber of Deputies had not appropriated the necessary funds. Edward Livingston was sent as minister, charged with the duty of procuring the prompt payment of this indemnity. After much evasion, the question was finally submitted to the Chamber of Deputies, and payment declined. President Jackson's limited supply of patience was soon exhausted; and, in his Message of 1834, he recommended reprisals. This message, coupled with certain dispatches which had been imprudently published by the United States Government, was very offensive to France. Livingston was informed that, while the matter of the indemnity would be submitted to the Chamber of Deputies for reconsideration, it would be advisable for him to accept his passports. This he declined to do; but he was instructed by the President to leave France if the application for the payment of the indemnity was rejected.

The Deputies finally resolved to pass the appropriation, but attached a proviso that the money should not be paid until a satisfactory explanation had been made of the offensive part of the President's Message. Mr. Livingston, refusing to treat an Executive Message to Congress as subject to the criticism of a foreign Power, asked for his passports, and left the Legation in the hands of his secretary, with instructions to leave France if the indemnity was not paid. Payment was again refused. The President drafted a special Message to Congress and submitted it to Livingston, who wrote, "The draft you did me the honor to show me would make an admi-

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rable manifesto or declaration of war." The more cautious minister drafted a Message that was the basis of the one actually sent on January 15, 1836, which induced the French Government to pay the instalments without further reservation. In his sixth Annual Message President Jackson says:

"It is my conviction that the United States ought to insist on a prompt execution of the treaty, and, in case it be refused or longer delayed, to take redress into their own hands."

The Senate Committee on Foreign Affairs, to which the Message was referred, reported a resolution to the effect that it was inexpedient at that time to pass a law authorizing reprisals, but expressing

"entire concurrence with the justice of the claim. . . It is conceded that the refusal of one portion of a foreign Government whose concurrence is necessary to carry into effect a treaty with another may be regarded in strictness as tantamount to a refusal of the whole Government."

The question again arose in connection with the Treaty of 1867, by which the United States acquired Alaska from Russia. The treaty, which required that Russia should be paid the sum of $7,200,000, was ratified by the Senate on May 28, 1867, and duly proclaimed in June, 1867. The territory was formally transferred by Russia to the United States on October 18, 1867. When the question of the legislation necessary to carry the treaty into effect came before the House of Representatives, the House, as usual, insisted upon discussing the merits of the treaty and the advisability of making the appropriation. The majority of the House Committee on Foreign Affairs reported a Bill making an appropriation to carry the treaty into effect; while the minority report asserted that the territory was worthless, and recommended the rejection of the purchase. The necessary appropriation was made; but the preamble of the Resolution of July 14, 1867, was so framed as to imply the right of the House to refuse the execution of a treaty which did not meet with its approval.

The money required to be paid by the recent treaty with Spain was appropriated without much debate; but there were a number of votes in the negative.

We thus find that the House of Representatives has never refused to make an appropriation when necessary to carry out the terms of a treaty. But, from the resolutions and debates, it may be inferred that it still claims the right to exercise an independent judgment, and to refuse to make an appropriation if a treaty does not meet with its approval. As a matter of public law, the solution of the question seems

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to be found in the principle that a treaty may bind internationally when it would not bind municipally. The treaty-making power is vested in the President and the Senate without reference to the House of Representatives. When a treaty is ratified and proclaimed, it becomes the law of the land, and the international obligations of the contracting parties are complete. It is as much obligatory upon Congress as upon any other branch of the Government or upon the people at large. The nation is bound by the contract thus entered into through the proper contracting organs; and it is the legal duty of the House of Representatives to provide the funds necessary for carrying out the contract. If it refuses to do so, the national faith is broken; and the remedy is on the bond.

A state treating with the United States is bound by knowledge of the constitutional provisions regulating the making of treaties, and cannot complain if the Senate refuses to ratify. But it has nothing to do with the method by which the money it is to receive under the contract is to be provided. That is a question to be determined by the United States alone. It is, of course, true that the House cannot be compelled to appropriate money or do any other legislative act; but, if it cares to assume the responsibility of refusing, and the United States cannot thus carry out its binding engagement made, the other party to the contract may do as President Jackson did with France —stand on the contract, and go to war if it deems the occasion sufficient to justify such a measure. The treaty is broken; and the national responsibility for the act is upon the House of Representatives.

The same principle would seem to govern the extension of the treaty power to unusual subjects; but the moral responsibility would certainly be shifted. It is no longer questioned that a treaty may modify an existing tariff. But suppose a treaty should stipulate that the United States would maintain an army of a certain size, or that the United States would declare war upon some other Power?

Here is a manifest defect in the constitutional system; but experience has shown that the good sense and patriotism of Congress can be relied on. It is safe to assume, as said by Gladstone, that the depositaries of power will respect one another, and evince the consciousness that they are working in the common interest for a common end; that they will be possessed together with not less than average intelligence, and with not less than an average sense of equity and of the public interests. When these reasonable expectations fail, then will the country be in danger. CHARLES B. ELLIOTT.

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A CENTENNIAL STOCKTAKING: THE ASPECT.[1]

THE explanation advanced by Malthus to account for "the cessation of Northern emigration culminating in the downfall of the Western Empire" is, "that the most desirable countries of Europe were then already inhabited by the descendants of the greatest and most enterprising of the German tribes." Yet we know that two empires, founded by these barbarian hosts,—that of the Vandals in North Africa, and that of the Goths in Italy,—were shattered quickly enough by the weak legions of Byzantium under the command of Belisarius. Were the assumption of Malthus correct, these conquests would not have been so easy; and the Germanic hosts would have continued their onsets.

I consider it extremely doubtful whether over-population was ever an important factor in these migrations from the North. The inferior breeds of cattle, as well as the rude system of agriculture prevailing among these peoples, could never have supported a dense population. Moreover, the vast tracts of unoccupied lands in their immediate neighborhood easily afforded space for increasing population, wherever pressure existed. Indeed, in the days of Charlemagne the primitive forest still covered the greater part of the lower Rhine provinces, the country where conditions favoring the spread of civilization existed earlier, by many a century, than in the interior of Germany. The migratory movement is heard of once in the life of a nation and no more: over-population does not manifest itself in this way. We must, therefore, seek the solution of the problem in the changes that are effected in the economic organization of these tribes themselves. These, I think, will explain why we hear no more of migrations at the later epoch to which Malthus refers. So long as the chase and the domestic breeds (left to themselves to roam in field and forest) supplied the chief means of subsistence, nomadic tendencies survived. The common acre, roughly tilled, supplied oats and barley

[1] Mr. SCHOENHOF's first article on this subject, "A Centennial Stocktaking: A Retrospect," appeared in THE FORUM for May.—ED.

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for gruel, bread, and mead. Rye does not seem to have been planted before the seventh century. Cæsar says of the Suevi:

> "Those who stay cultivate the soil for themselves, as well as for those that are absent, and in their turn arm themselves in the following year, while the others stay at home: but no one among them possesses land separately; and none can occupy the same land for cultivation for more than one year. They consume little grain, subsisting principally on milk products and on the meat of their herds; and they apply themselves to the chase."

The land was tilled in common; and the product was divided. The system itself may be classed with the forest-field system, still practised in some parts of Russia. It indicates a step in advance, when the lot assigns a piece of the arable land to the family group, and later to the householder, for exploitation. The piece was measured proportionately to the number of heads in the family. The Lex Burgundionum (*circa* A.D. 525) prescribes that the *consortes* must not be limited in their share of the common acre. No scarcity of land was yet felt. By the same law a prohibition is recorded against selling any share of the common acre assigned by lot to a member of the community. This denotes that settled conditions have subvened. Private property in land seems to have found legal recognition; but the common acre is still the basis of tillage, though the product is the property of the tiller.

The land at the disposal of the community was sufficiently ample to admit of a resort to other fields after each crop; and thus the first exploited field was left fallow for a number of years. A similar system prevails at the present day in Southern Siberia. At the time of Charlemagne, the three-field system—"Winterfeld," "Sommerfeld," and "Brachfeld," *i.e.*, rye, oats, and fallow—seems to have been generally introduced, as demonstrated from the Capitularies; and this system was still in vogue at the time of Arthur Young's travels in France.

But these changes of system did not set in at distinct periods: they developed gradually. We should also bear in mind that legal enactments are but the official recognition of preëxisting conditions frequently covering formative periods of long duration. From the sixth century onward, the social and political forces work for economic advancement. The Church becomes an important agency of progress in this direction: the Crown donates extensive tracts to the clergy, and to the newly created nobility, the officers of the King. Under this system, the freeman gradually loses his position and becomes a ten-

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ant, or even sinks into villanage; but the slave becomes a serf, and in this way is advanced in position. Thus was laid the groundwork for the creation of capital; while effort was beginning to be directed toward improvement, which would have been possible in no other way, considering the times and the people. In the Carlovingian period the evolution was well-nigh completed. The loose connection between scattered settlements of free occupiers of the common mark, as known to Tacitus, was gradually, but steadily, developing toward the formation known as the feudal state. The force of Charlemagne's hand was even then required to repress the tendency toward oppression exercised by the great landholders.

We have only to follow the spreading of settlements in every direction, from the sixth century onward, to understand that agriculture, though still practised in the rudest form, was gaining steadily on the forest and the marsh. Liberty became abridged; but the means of subsistence for increasing populations came forth in fuller supply than had been the case under the primitive civilization that had been supplanted. Thus the economic interpretation of history frequently furnishes the key to many phenomena which would otherwise remain inexplicable. It is not my purpose here to dwell upon these remote periods. I only wish to point to the fact that, whatever the causes that may lead to it, improvement always makes room for increasing populations. This consideration does not seem to have influenced the conception of Malthus or of his disciples.

The "isolated state," practically the state of the Middle Ages, did not permit of the spread of population. The means of subsistence were limited by the productive capacity of the soil of the immediate neighborhood. On the continent of Europe, the territory of the state, whatever its designation, was frequently of very narrow limits. At one time, the territory over which the King of France held sway was confined to the Île de France. Within a few leagues of Paris some of his feudal vassals disputed his authority from their castles. The possessor of a fief, however small, considered his dominion the state. Whatever the degree of usurpation connected with the exercise of prerogatives by the various tenants and subtenants under feudal grants, the effect on agriculture was equally baneful.

But even in England—the first European country to effect the consolidation of the state in the person of the monarch—agricultural development, up to the eighteenth century, made but slow progress toward providing means of subsistence. Progress dates from the time

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that the old conditions crumble and are merged into a new polity,—a polity as different from that of the seventeenth century as was that of the German of the eighth from that of his predecessor of the fifth. This progress, though slow at first, gradually becomes more pronounced, until at last we note the presence of entirely new conditions. The agricultural state had to be superseded by the industrial-commercial state: privileges and vested rights, which had kept dormant the energies of the people, had to be supplanted by laws guaranteeing the free exercise of equal rights, before any vital effect could become visible. The creation of capital was one of the essential features of this progress. What had prevented its creation in the past has not yet been sufficiently explained by economists; and, while I cannot enlarge upon the question here, it will be generally admitted that modern conditions are responsible for its creation, as well as its maintenance. With the power of capital and of intellect, as free factors employed in production, the result could not have been otherwise than we behold it to-day.

That the causes governing progress are as stated here, may be easily proved: we have but to contrast the productive capacity of the progressive with that of the non-progressive countries of Europe.

Sparse as the population of England was up to the early part of the eighteenth century, considerable quantities of grain had to be imported to meet the *per capita* allowance, which was much smaller than that of to-day. Hume tells us that during the reign of James I the nation was still dependent on foreigners for its daily bread, and that whenever importations were stopped, the evil consequences were seriously felt. He quotes Sir Walter Raleigh ("Observations") as authority for the statement, according to which "there were at one time two millions expended for grain." Yet competent writers estimate the total population at this time (James I) at a little above four millions.

That the soil of France is far more favorable to grain production is generally admitted. Arthur Young was in the best position to give an authoritative opinion on this point, when, on completing his travels in France, he declared the difference in grain production to be the distinguishing agricultural feature between the two countries. M. Leonce de Lavergne, after an extensive tour through both France and England sixty-five years later, dwells on this feature as applicable to the whole territory: "In addition to the disadvantages of soil, the climate itself is unpropitious, the proverbial fogs and the excessive

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humidity being little favorable to wheat production." Yet, despite these disadvantages, the product on an equal area was even then (1854) nearly two bushels in England to one bushel in France.

The progress of England is due, therefore, entirely to external forces. Again, we cannot ascribe the earlier start, by nearly a century, in the agricultural progress of England to any other cause than the earlier attainment of political freedom, and to the absence of feudal burdens, which, far into the nineteenth century, oppressed the agriculturist of Continental Europe. The economic development follows the political. The productiveness per acre of the area under cultivation gives us an unerring gauge for measuring this progress; while we have also data for three periods on which to base our comparisons.

The first period, concerning which we have the reports of Gregory King, refers to the old-time conditions in agricultural industry. The second is covered by Colquhoun's data. During this period very advantageous conditions were enjoyed by the landed interests; while an oppressive legal system weighed upon all other classes of society. The third, the present, embraces the era of Free Trade. The results may be thus expressed: In 1696 the gross yield per acre of wheat was 11.25 bushels; in 1812, 25 bushels; and in 1896, 32 bushels.

The progress made by France, as illustrated in the increasing yield per acre, dates entirely from post-Revolutionary times, and becomes a factor in agriculture only after the conclusion of peace. It will be remembered that, according to Vauban's estimate, the product of a hectare of wheat in 1700 is fixed by Moreau de Jonnés at 8 hectolitres, or 8.8 bushels per acre. So late as 1789, Lavoisier, charged by the National Assembly with the collection of agricultural statistics, arrives at an average of 8 hectolitres per hectare. According to an official inquiry, this figure is still the average in 1813; while in 1815, the tables published by the Minister of Agriculture record an average of 8.59 hectolitres (9.45 bush.) per acre. The rate of increase for the ensuing periods will be found in the subjoined table.

Period.	Average per Acre.	Period.	Average per Acre.
1816–1820	11.24 bush.	1861–1870	15.7 bush.
1821–1830	13.10 "	1871–1880	16.0 "
1831–1840	14.04 "	1881–1885	17.27 "
1841–1850	15.07 "	1894–1896	18.7 "
1851–1860	15.4 "		

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In order that the reader may be able to form a clear conception of the change in conditions since the removal of the burdens on French agriculture, I submit below the total cereal production, the product per acre, and the product *per capita*, gross and net, classified according to certain epochs in the history of France.

Year.	Total Annual Product in Thousands of Bushels.	Total Net Product in Thousands of Bushels.	Gross Yield per Acre in Bushels.	Gross Yield *per capita* in Bushels.	Net Yield *per capita* in Bushels.
1700.....	255,284	202,150	8.8	13.43	10.64
1789.....	316,250	250,000	8.8	12.20	9.62
1813.....	363,000	288,000	8.8	12.53	10
1840.....	524,840	444,804	14.4	15.5	13.1
1896.....	770,000	687,500	20.9	20.3	18.1

A century showing a productiveness in grain of 8.8 bushels per acre at its beginning, and of 20.9 bushels at its close,—an increase of 150 per cent in fertility,—has certainly a bright feature in its history. The increase *per capita* from 10 bushels to 18 bushels net production is a convincing proof that scientific progress has increased the well-being of the poorer classes,—a proof invulnerable to the attacks of pessimistic theorists.

It is noteworthy that the rate of production in such countries as Sweden, Norway, Denmark, Belgium, and Holland is still higher than that in France. In the northern countries rye is the chief bread-stuff. In France, wheat takes the place of rye, as it has done in England since the soil has become sufficiently prepared for it through constant amelioration. The rate of production per acre, according to the latest official publications (generally for 1895) from the respective countries, stands, when reduced to Winchester bushels, about as follows:

Country.	Wheat.	Rye.	Barley.	Oats.
England.....	32	....	33	40
Holland.....	26.9	23.5	40.7	43.5
Norway.....	25	27.8	31	39.6
Denmark.....	24.1	23.9	29	33
Belgium.....	21.5	22	30.8	39.4
Sweden.....	25.3	23.1	26	26.4
Germany.....	22	18.4	25	30.5
France.....	18.7	18.5	21.7	26.4
Hungary.....	17.9	17.6	21.9	28.1
Austria.....	16.1	16.1	18	21.1

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No one would designate Belgium, Holland, Denmark, Sweden, and Norway as countries especially favored by nature. Belgium has a great deal of poor land. Cliffe Leslie says "the soil in general is so little favored by nature that even second or intermediate crops require special manure." Laveleye, himself a Belgian, calls it "the worst soil of Europe"; and he adds, "although fertilized by ten centuries of laborious husbandry, the soil of Flanders does not yield a single crop without manuring; not a blade of grass growing in the country unless fertilized—a fact unique in Europe."

Holland was made by the hand of man, and requires incessant watchfulness to guard it against the encroachments of the sea. Much of its agricultural soil, now in a high state of fertility, was not very long ago either submerged or covered by the sands of the dunes; while a considerable portion was lying waste as moorland or heath. Denmark—at least so far as Jutland is concerned—is in about the same position as Holland; the winds and the waves being apt to destroy what the toil of ages has planted.

Sweden and Norway, a hundred years ago, could not produce sufficient food for less than one-half the present population; and the improved condition of the people, as compared with that described by Malthus as a state of abject misery, is entirely due to the advancement made in agriculture.

If we now turn to Russia and Italy, we certainly speak of countries blessed by nature,—countries which would seem to require only the common skill of the husbandman to produce the richest crops in the world. Russia's black-earth territory, consisting of a rich loam, stretches from the neighborhood of Moscow to the Black Sea, and from the Urals to the western frontier. It is scarcely necessary to state that Italy has in all ages been a synonym for fecundity.

Country.	Wheat.	Rye.	Barley.	Oats.	Maize.
Italy.....	9.9	11.4	11.4	15.7	13.9
Russia[1].... ...	10.45	11.7	12.7	16.7	....
Russia.....	8	9	10.9	15.1	12

[1] The figures for Russia are based on the data supplied in the ministerial report prepared on the occasion of the Columbian Exposition at Chicago. This is, to my knowledge, by far the most interesting and important work dealing with the resources and the inner economy of that vast empire. I quote two lines of figures: the upper line results from aggregating the acreage of Russia; the lower, from aggregating the averages of the several provinces.

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These well-known facts render an investigation as to the average number of bushels per acre produced by these countries especially interesting,—more particularly, when the result is contrasted with that just obtained for the first-mentioned group of states.

The differences in the average yield per acre in the provinces of Russia, subjected as these are to different systems of cultivation, are as great as, if not greater than, the differences in yield between Russia and Italy, on the one hand, and Western Europe, on the other.

The methods of cultivation employed in a very extensive part of Russia, as well as that primitive organization, the so-called "mir," or village community, which controls every action of the agriculturist, remind one of the remote beginnings of German civilization at the time of the Carlovingian monarchy.

The low general results are due to various causes upon which it is impossible here to dwell in detail. Suffice it to say that the difference in average between the high- and the low-yield provinces furnishes considerable matter for reflection. This difference will become manifest on an inspection of the figures presented in the following table:

YIELD IN BUSHELS PER ACRE.

	Wheat.	Rye.	Barley.	Oats.	Maize.
Average of low-yield Provinces..	5.9	6.5	8.7	8.4	8.8
Average of high-yield Provinces.	14.9	15.5	16.9	21.1	15.8

Here again we perceive that the high averages are obtained where man and not nature has been the most active agent. The intensity of yield of each of the different cereals per acre is indicated on maps, accompanying the ministerial report. The returns from every breadcorn sown are lowest per acre in the south of Russia, *i.e.*, in the fertile zone; while the greatest yield is in the Baltic provinces, where the best methods of cultivation are employed. The extensive system of cultivation may be urged in explanation of the low rate of production per acre. In answer to this argument, we may point to the yield of the United States, where the extensive system of cultivation is certainly the practice in grain production. Here 3,500,000,000 bushels are usually raised on about 150,000,000 acres; while Russia, in favorable years, produces only 2,000,000,000 bushels on 170,000,000 acres.

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Nor would the plea explain why little progress has been made toward an improved system. Those who are familiar with the institutions and conditions under which the people of Russia live, toil, and die, will experience no difficulty in solving the problem. Apart from this, the fact remains that under existing conditions the richest soil in Europe makes no better provision for a sparse population than did France a century ago, or England two centuries ago, when similar conditions of wretchedness prevailed in those countries.

A parallel case is offered by Italy. Tuscany, Lombardy, and Piedmont have ever been examples of splendid cultivation. Flanders and Burgundy, the teachers of England in husbandry, were the early disciples of Etruria and Lombardy. Their yield is large. Though populous, these provinces are self-sustaining. Lombardy at times has produced enough to sell beyond her confines. Laveleye, in his essay, "La Lombardie et la Suisse," published in 1869, places the average yield in these provinces at 16 to 17 hectolitres of wheat per hectare,—about 18 bushels per acre, and at 30 to 42 hectolitres of maize per hectare,—about 40 bushels per acre. We have gathered from the above that the average for the entire Kingdom at the present day is 9.9 bushels for wheat and 13.9 for maize. Were we, therefore, to exclude Etruria and Lombardy from the general average, the sum total of production in Italy would be even more insignificant than it is. It is worthy of mention here that these prosperous sections of Italy were the field on which the mailed aristocracy of feudalism under its imperial leader was overthrown. Here modern Democracy firmly established itself as early as the twelfth century, and gave rise to all that is great and ennobling in modern Europe.

On the other hand, the reactionary influences of mediæval institutions survived longer in and exercised a more complete dominion over other parts of Italy. Whatever may have been the effect of these reactionary influences on agriculture, the fact remains that in these other provinces cultivation is still as backward as in the most primitive parts of Europe. Otherwise, it would not be possible to account for the remarkably low average of the acre under grains,—an average even below that of Russia.

In the table on the following page is given the total acreage under grains, together with the average production of all grains per acre. The figures are those for 1895, except where other years are mentioned. I have reduced the official returns of the various countries to bushels.

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ACREAGE UNDER GRAINS AND NUMBER OF BUSHELS OF ALL CEREALS PER ACRE, ACCORDING TO RATIO OF YIELD PRODUCED BY THE VARIOUS COUNTRIES OF EUROPE.

Country.	Bushels per Acre.	Total Acres under Grains.
Norway (1890)	36.08	464,000
United Kingdom	34.5	8,728,000
Netherlands	32.4	1,731,000
Belgium	31.1	2,334,000
Denmark	28.5	2,876,000
Sweden	24.8	4,230,000
Germany	23	34,200,000
France	20.9	37,034,000
Austria-Hungary	19.5	40,767,000
Russia[1]	11.9	170,253,000
Italy	11.3	21,175,000

[1] The discrepancy between the average of Russia as compared with that submitted in a preceding table, is owing to the fact that the above figure refers to a particularly favorable crop year; while the average of 10.15 bushels, given in a previous table, was taken from the Government Report of 1890. The latter figure comes much nearer the usual annual average.

These figures, carefully compiled from official publications, show that enormous progress in agriculture has been made within the century. They show, furthermore, that this progress is commensurate with the time required for the extension of our liberal modern institutions. We know, from the history of these countries, that the prevalent state of cultivation, except in Belgium and Holland, was not very different from that of France in the days of Vauban. It is certain that, at the time of Malthus, none of these countries, with the exception of England, Belgium, and Holland, had advanced beyond the ratio of France at the period of the Revolution.

It is clear that the progress thus achieved may be equalled, if not surpassed, by the countries that have lagged behind, possessing as they do all the advantages of soil and climate. Russia's *chernoziom* zone, the black-earth belt, for instance, so celebrated for its fertility, alone covers an area of 270,000,000 acres. In 1700, according to the computation of Moreau de Jonnés (whose figures are based upon Vauban's tables), France's gross yield of all cereals was 8.8 bushels per acre. As will be remembered, Charles Davenant, quoting from Gregory King's estimate, states that England's yield at that time was 11.25 bushels. Russia and Italy are, therefore, practically on a level with the England of two centuries ago.

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If, by means of improvements, Russia's ratio should be raised to the present ratio of France, her annual product would be increased by 1,500,000,000 bushels; if raised to the present ratio of Sweden, this figure would be swelled to 2,100,000,000 bushels; while a comparative increase to the present standard of the United Kingdom would give 3,800,000,000 bushels in excess of the present yield. At the last-mentioned rate, and without adding an acre to her area now under cultivation, Russia would produce 5,800,000,000 bushels against 2,000,000,000, the present yield in favorable years. Of this she exports about 250,000,000 bushels, wrung from a population of which 90 per cent is in a condition little removed from actual want. Millions of her people are exposed to famine, owing to the frequent deficiencies of crops,—deficiencies inseparably connected with the barbarous system of cultivation and of government. Yet, in the Russia of to-day we but behold the last relics of conditions which, not so very long ago, were characteristic of nearly the whole of Europe. An advance on the part of Russia to the present status of England would, therefore, not mean that she equal her in strength of armament, but in productiveness: this would indicate an advance in civilization similar to that of England. Under such conditions, Russia could keep her 2,000,000,000 bushels for home consumption, could add 1,000,000,000 to provide for an increase of 50 per cent in her population, and still retain a surplus for export equal to the whole wheat crop of the rest of the world.

French agriculture, if advanced to the present status of Belgium, would yield about 350,000,000 bushels in excess of the output of 1895 (775,000,000 bushels). France could, therefore, amply supply a population half again as large as that which she now possesses. As matters stand, she is to-day practically self-supporting in grains, her average imports of cereals for ten years amounting to only about 27,000,000 bushels.

It is impossible in this short article to explain the causes from which these various results have followed. Wherever there is improvement, it is noticeable in all branches of cereal production. The ration has improved in quality and quantity. The additions to the bill of fare are especially noteworthy. Not to speak of the potato, which, together with other vegetable food, furnishes an additional and a very large quota to the ration, the meat-supply of the working-man and of the agricultural laborer has everywhere been increased beyond all expectation. Owing to the improved methods of cultivation, an abundant

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supply of fodder has been procured. In consequence of this, the laborer is enabled to secure his increased quota of animal food, whereby his energies are stimulated and his working capacity augmented. And, what is still more important, the increase of live stock has now insured permanent fertility where formerly the fallow was the only means of relief to an exhausted soil.

M. de Lavergne estimated the meat-supply of France for 1815 at 40 lbs. per head per annum. Prior to the Revolution, meat was scarcely a quotable quantity on the bill of fare of a French working-man, not to speak of the peasant. For more recent dates the Ministry of Agriculture gives the following figures :

Year.	Consumption of Meat *per capita*.		
	In Towns.	In the Country.	Of total Population.
1840	107.6 lbs.	32.0 lbs.	44.0 lbs.
1862	117.8 "	40.8 "	57.0 "
1882	142.0 "	48.2 "	72.6 "

The importations are insignificant. In 1862 the *per capita* quota was 0.044 lbs., and in 1882, 0.28 lbs.

The steady increase in the weight of animals is as noteworthy an indication of better farming as is the increase in bushels per acre. The average weight of oxen in 1840 was 915 lbs., and 1,023 lbs. in 1882; cows averaged 528 lbs. in 1840, and 706 lbs. in 1882 ; calves weighed 105 lbs. in 1840, and 152 lbs. in 1882 ; pigs, 204 lbs. in 1840, and 264 lbs. in 1882 ; while the average weight of sheep advanced from 53 lbs. to 73 lbs. within the same period.

The revolution in the means of transportation, which made it possible to bring a bushel of wheat from Duluth in Minnesota to London or Havre at the expense of 12 cents, induced farmers to abandon many a cornfield that might otherwise still contribute to the home supply of corn-importing states. The markets opened by the increasing town populations offered special inducements to a change of occupation. Thus, dairy-farming and stock-breeding have now become essential elements of agricultural industry. Here, again, the greatest progress has been made by those states whose agricultural territory is limited, and with whom the rigor of winter is the most severe. Stall-feeding becomes the custom; the collection of manures, both liquid and solid, is most carefully conducted with the least possible waste; and

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thus returns are insured which could not possibly be otherwise realized. It is in the states where the product of the farm acre shows the highest yield that the exports of animal products about balance, and in some cases even exceed, the imports of cereals.

The density of population in the Netherlands is 406 per square mile,—double that of 1830, and 110 per cent in excess of that of modern France. The net exports of animal produce about balance the net imports of grain and flour. The population has increased from 4,000,000 in 1880 to about 5,000,000 at the present time. The productiveness of the soil must have advanced in an equal ratio. The net imports of cereals and flour in 1882 amounted to 55,000,000 florins ($22,000,000). The net exports of butter and cheese amounted to 47,000,000 florins. The imports of all food-products in 1895 amounted to 392,000,000 and the exports to 374,000,000 florins,—an excess of 18,000,000 and an inconsiderable increase of imports over exports as compared with 1882.

Holland and Flanders were always large importers of grain. It is known that in the seventeenth century, the Netherlands imported the larger part of their supply. Yet Davenant tells us that the United Provinces in 1688, while at the zenith of their political power, harbored a total population of only 2,000,000. But the great progress in agriculture dates from the time that the Netherlands lost colonial and maritime eminence.

Belgium is more largely a manufacturing state than Holland. Her large towns are more numerous. On a somewhat smaller territory she accommodates a population greater than that of Holland by 1,500,000. In 1896 the average per square mile was 571,—a density of population three times as great as that of France. Her imports of food products amounted to 396,000,000 francs; her exports of the same category to 210,000,000, or an excess of 186,000,000 ($38,000,000) of imports over exports,—in other words, about $6 *per capita*. In 1882, however, the excess of imports was as high as 260,000,000 francs, although the population at that time was less than that of to-day by 1,000,000. This would imply an excess of $9 *per capita*. In 1883 this excess is diminished to 227,000,000 francs, or $8 *per capita*; in 1892 it sinks to 171,000,000 francs; and this proportion is maintained until 1896. The entire increase of population is therefore provided for by the increasing yield of the same extent of territory under cultivation.

Denmark gives still more forcible evidence of increasing yields. She has a population of 2,200,000, or 143 inhabitants per square mile.

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She is not only able to feed her steadily increasing population, but is in a position to export considerable quantities of food products. In 1885 her exports of such products amounted to 200,000,000 kroners ($54,000,000); her imports, to 83,000,000 kroners ($22,400,000),—an excess of $32,000,000, or $17 *per capita*. The exports of food products, animal and vegetable, of the United States for the fiscal year 1897 amounted to $390,000,000, or $5.55 *per capita*. In the phenomenal year 1898 they rose to $550,000,000, or $7.85 *per capita*. The rate of progress in Denmark is shown by the following statement:

"According to official figures the production of grain, about one hundred and fifty years ago, amounted to about 12,000,000 bushels annually. In consequence, however, of the reforms effected at the beginning of the nineteenth century, the rate of production was gradually increased to 36,000,000; while, during the period of 1881–1887, it rose to an average of 86,000,000."—("Tenancy and Ownership," Prize Essay of the Cobden Club, by John Watson, 1891.)

Only a comparatively small portion of the soil of Norway is adapted for agricultural pursuits. The cultivable area comprises about 2,600 English square miles, or 1,650,000 acres. The soil and the climate are equally unpropitious. In consequence of the impoverished condition of the people, and the want of proper nourishment, leprosy and scurvy were formerly the scourges of the country. At the time of the Revolution (1814), when Norway obtained her independence, the condition of the people was lamentable. But the change of institutions has been succeeded by others which must be considered the more remarkable, implying as they do a victory over the most unpromising materials. The division of feudal estates and the abolition of feudal privileges were among the earliest acts of the Storthing, the representative body of this "Bauernrepublic," or peasant republic, as Norway is appropriately termed. At the same time the lands of the communes and of the state were parcelled out and handed over to private enterprise. In consequence of this measure, the number of holdings had increased from 90,385 in 1825, to 236,286 in 1890. The cultivated soil, as we have seen, yields the largest crops to the acre of any country in Europe.

It is doubtful whether any peasantry surpasses that of Norway in general intelligence and culture. A degree of well-being pervades the country, the signs of which everywhere impress themselves upon the attention of foreign observers. What a wonderful contrast to the depressing conditions described by Malthus a hundred years ago! The population has increased from 886,431 in 1815, to over 2,000,000 at the present day. Yet Norway can set against imports of bread-stuffs

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of the value of 30,000,000 kroners ($8,000,000) exports of animal produce of about an equal amount.

Sweden was formerly an aristocratically governed nation of large landholders. The modern laws favor small holdings. They recognize no limit as to the division of the land, except that the farm must be large enough to support a family of three. The holdings are more numerous in Norway; and the subdivisions are much smaller. Though the land is generally superior in Sweden, the yield per acre is inferior to that of Norway. But in the aggregate a very large yield is realized —proof of a most satisfactory advance in methods of farming. The population of 1800—2,347,300—had in 1820 been increased by barely 10 per cent; yet, in 1896, it had doubled, being then officially estimated at 4,919,260 persons. The net imports of corn and flour in 1895 amounted to 20,000,000 kroners, against net exports of animals and animal products of 50,000,000 kroners ($13,500,000), leaving an excess of exports over imports of 30,000,000 kroners ($8,000,000).

The ratio in yield per acre is paralleled by the number of live stock raised on the cultivated acre of the different states. The annexed table, compiled from the latest available returns, will demonstrate the correctness of my assertion.

LIVE STOCK, ACREAGE, AND PRODUCTS PER ACRE.

Countries.	Acres under Grain Crops in Thousands.	Bushels per Acre.	Horned Cattle in Thousands.	Horses in Thousands.	Horned Cattle per Thousand Acres.	Horses per Thousand Acres.
Norway (1891)	464	36.08	1,007	151	2,183	325
United Kingdom (1895)	8,728	34.05	10,960	2,060	1,140	237
Netherlands (1895)	1,731	32	1,543	266	800	154
Belgium (1880)	2,334	31	1,383	272	592	117
Denmark (1893)	2,876	28.5	1,696	410	590	143
Sweden (1895)	4,230	24.8	2,540	506	600	120
Germany (1892)	34,200	23	17,555	3,836	514	112
France (1895)	37,034	20.9	13,334	3,072[1]	360	83
Austria-Hungary (1891)	40,767	19.5	14,235	3,545	349	87
Russia (1888)	170,253	11.9	24,609	19,633	145	79
Italy (1882)	21,175	11.3	5,000	952[2]	236	45

[1] Inclusive of 237,000 mules. [2] Inclusive of 293,868 mules.

The years specially indicated have reference to live stock: the crop years are those of the table previously given on acreage and crops. The items for Belgium and Italy, dating, as they do, from 1880 and

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1882, are probably too low by 5 to 10 per cent—applying the rate of increase among other nations concerning which we possess comparative figures. The ratio of Russia would be diminished, if the provinces where stock-raising is conducted for its own sake—and the agricultural yield is lowest in these—were taken independently of the provinces where the raising of crops is the chief end. A similar criticism may be extended to the statement referring to England, where land has always been more extensively devoted to grazing than elsewhere in Europe, and where, of late, pasturage has made considerable inroads on the cultivated area.

With these reservations, and a similar allowance for an excess in the ratio of Norway and Holland, the table demonstrates that the greatest progress in both gross and net returns has been made in those states where peasant-proprietorship has become the prominent feature of land tenure.

The subject cannot here be followed into any of its details. My object is to point out the immeasurable resources that lie hidden in the soil,—resources which only await the opportunity that will call them to the aid of man. The law of compensation is of wide applicability in regard to land. Where the greatest fecundity is the gift of Nature, she guards herself against the too free use of her favors by preventing man from exercising his energies. But where she dispenses her favors sparingly, she confers on man a gift of far greater value in the spur to labor, and the aim to attain the highest results by his exertions.

It would be rash to set a limit to the productiveness of the soil; for this would be equivalent to limiting the power of brain and hand. Varying conditions may make this or that system the fittest. It would be absurd, for example, to apply the agriculture of the Channel Islands to the United States. But, in order that under each and every condition the best may be attained, security of tenure and freedom from restraint must lie at the foundation of the commonwealth. With this condition assured, and with the scientific discoveries and inventions now at our command, we may look hopefully into the future, free from the fear of scarcity and want. J. SCHOENHOF.

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UNDER THE ROSE-CROSS SYMBOL.

In this generation of literary hobbies, it is surprising how few take interest in Rosicrucianism; for it contains potentialities of romance and entertaining study in a greater degree than any of the cults seized upon by many who like to explore old libraries and who read with a special object.

In England there has been a regularly organized Rosicrucian literary society for years, which had at one time that prince of scholars, Edward Bulwer (Lord Lytton), as its nominal leader. Germany has studied the subject more or less for centuries, and produced some able exponents of the creed. Some years ago Boston recognized Rosicrucianism in its literary aspect, and had its Societas Rosicruciana.

History and romance have ever had to do with the rose and cross as symbols. The rose figures conspicuously in legend; and the Hebrew Scriptures have much to say of it. Some of Dante's poems are based upon the rose device; mystical literature of Germany presents the rose as the token of silence; and Romans in past centuries pledged their secrets to each other *sub rosa*. In religious symbolism the rose and the cross predominate; and united they form the emblem of the Rosicrucian.

France has often been the arena of ingenious charlatanry, exploited in the name of Rosicrucianism. It was there that St. Germain attained a prominence more dazzling, while it lasted, than that of any ambassador, sage, or wit; and there Cagliostro drew a multitude of worshippers to the shrine of credulity. Almost every generation in France has witnessed the birth of an ism or ology based upon the Rosicrucian idea, and having a more or less extended life.

A few years since, eccentric and æsthetic Paris had something unique for a hobby; viz., the Rosicrucianism of art. M. Peladan was its responsible apostle; and for a time he basked in the fickle sunshine of boulevard favoritism, and wore his hair long. He called himself the Czar of the movement, and led it with a sufficiently imposing splendor. Peladan exhorted willing readers to

"worship art,—art that is immortal, and compared with which the Church is transitory and obsolescent. . . The world may be able some day to close the churches,

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but not the museums. The Louvre will officiate if Notre Dame is profaned. . . The gallows of the holy torture has put forth a flower. A Rose has arisen, opening, enlarging, and trying to inclose in its pious leaves the divine Cross of salvation; and the Cross, consoled, gleams forth."

After the style of the British Pre-Raphaelites, Peladan's followers held an exhibition, good enough or curious enough to draw *tout Paris* to the Rue le Peletier.

Some investigators claim that Rosicrucianism can be traced back nearly two thousand years before the Christian era, to the Egyptian Hermes, who practised alchemy and astrology, magic, the transmutation of metals, and the secrets of nature,—in other words, possessed the philosopher's stone and could compound the elixir of life. One enjoying these natural—or unnatural—advantages was well equipped for developing a doctrine on which a fraternity might be founded, whose Hermetic secrets should be absolutely inviolable.

It was after the renaissance of learning, however, in the seventeenth century, that the theme crystallized into a brotherhood with its present nomenclature fixed. Some writers say it is the Occidental development of Indian theosophy, whose singularly transcendental fabric fascinated the students of Germany; while others claim that it had its inception in the German brain. Whether considered as a fad or as a reality, it cannot be described in exact language, and can be written about with all reasonable license. None but a Rosicrucian can explain Rosicrucian mysteries; and can it be imagined that any member of this sect, which should be the most jealous of all secret brotherhoods, would lift the veil that hides the Isis of his wisdom from the world?

A Rosicrucian was a man assumed to have achieved a knowledge far beyond any curriculum, by means of which he was able to prolong life at will, or forever. The knowledge which enabled him to compound the elixir of life revealed the secrets for transmuting base metals into gold and silver. He possessed exalted intelligence, and led a blameless life. By reason of his immortality, no path of learning remained unexplored. He spoke all languages, was familiar with all countries, had immunity from human ailments, and could die only by his own wish: natural death was impossible. It was claimed that the brotherhood was rigidly limited in numbers; few succeeding in passing the ordeal, which debarred all but the strongest, intellectually and physically. In theory, the Order was recruited only when a brother tired of life and resigned it by his own act; and the mysteries of the

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philosopher's stone and the elixir of life were communicated to the aspirant who had proved himself a worthy depositary of those secrets and treasures. Celibacy, not necessarily a tenet of the brotherhood, was the natural outcome of its conditions.

Thus it will be seen that a Rosicrucian must have been an extraordinary and interesting personage. Have we known such a one, who might have been an eye-witness of our War of Independence, have been hail-fellow-well-met with the burly Knickerbocker who disported himself on Bowling Green, or sauntered at twilight through leafy Maiden Lane,—might perhaps have even seen the little fleet of Christopher Columbus set out on its famous voyage?

The hardened man, cursed with a memory, may point to examples of unnaturally prolonged existence on the stage, not due to a dip in the fountain of Ponce de Leon. Were a Rosicrucian in our midst, we should know him only as a contemporary in the ordinary sense. No hint of his mysterious history would escape, so impenetrably would he guard the secrets of his fraternity.

The pitfall in the path of a brother would be the danger of remaining so long in a community that succeeding generations might comment on his startling longevity, or a slip of the tongue betray acquaintance with long-buried persons. He must ever be on his guard. Even the armor of secrecy would at times prove awkward for the maintenance of the position he wished to hold among ordinary human kind; and his fantastic destiny would compel him ever to "move on." Thus he would become a wanderer, a sojourner in all lands yet a citizen of none; retracing the path of his journeyings to find new races, new cities, and new customs, after longer or shorter intervals of time.

As there is no record of a Rosicrucian sisterhood, it may be concluded that women have never been admitted to the Order.

A very rare book, "St. Leon," written at the close of the last century by William Godwin, gives a forcible illustration of another danger besetting the career of Rosicrucians. There happened in the year 1687, in Venice, an odd incident that made a great stir. A stranger, who went by the name of Signor Gualdi, was admitted into the best company, though no one knew who or what he was. He remained in that city for some months; and three things were observed regarding him. First, that he had a small collection of fine paintings which he readily showed to his associates; next, that he was perfectly versed in all arts, sciences, and languages, and spoke on any subject with mar-

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vellous readiness and sagacity; and, third, that he never wrote or received letters, never desired credit, paying as he went in ready money, and that he lived handsomely though not in splendor.

One day, at a coffee-house, Gualdi made the acquaintance of a Venetian nobleman who was an unusually good judge of pictures, and who begged the privilege of viewing Gualdi's collection, to which the latter readily consented. After the Venetian had inspected Gualdi's art treasures, and expressed satisfaction by telling him he had never seen finer, considering their number, he cast his eyes over the chamber-door, where hung a portrait of his host. The visitor looked upon it, then upon Gualdi.

"This portrait was drawn for you, sir?" said the Venetian to Gualdi, to which remark no reply was made. "You look," continued he, "like a man of fifty; and yet I know this picture to be by the hand of Titian, who has been dead more than a hundred years. How is this possible?"

"It is not easy," said Gualdi gravely, "to know all things that are possible; but there is certainly no crime in my being like a picture drawn by Titian."

The Venetian, perceiving that he had given offence, took his leave. He could not forbear relating his strange experience to some of his friends, who resolved to satisfy themselves by looking upon the picture the next day. To have an opportunity of doing so, they went to the coffee-house to meet Gualdi; but, not finding him, they went to his abode, and were told he had left in great haste an hour before for Vienna. The affair made a great noise, and found a place in all the newspapers of the time.

Writers give different derivations of the name "Rosicrucian." According to some, it came from Christian Rosenkreuz, a German with some reputation as a philosopher. Travelling in the Holy Land toward the close of the fourteenth century, he was taken ill and was visited by some learned Arabs, who, claiming him as a brother in science, unfolded all the secrets of his past life, and, aided by the philosopher's stone, restored him to health. Having been instructed in their mysteries, and been under tuition in magical science for three years in Morocco, Rosenkreuz returned to Europe, and devoted years to exploiting the new science, with fair success. He succeeded in attaining the age of 106, when his demise was a sad set-back for those who had believed in his pretensions to immortality.

The Latin derivation of "Rosicrucian," from *ros*, dew, and *crux*,

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cross, is countenanced by several encyclopædias and other books of reference. An argument in support of this derivation is found in a quotation, reading, "Of all natural bodies, dew was deemed the most powerful dissolvent of gold; and the cross, in chemical language, was equivalent to light." The derivation most generally adopted, however, and which would seem to be based on practicability, is that from *rosa*, rose, and *crux*. The accepted symbol of Rosicrucianism gives practical support to this theory. Whatever the origin of the name, the united rose and cross forms the emblem of the brotherhood, is the sign which scholars recognize, and, to say the least, is a very pretty conceit.

Students who quarry among dust-laden tomes are rewarded now and then by bringing to the surface a nugget of Rosicrucian lore. But the deeper their investigations, the more impenetrable becomes this esoteric mystery. One writer will hold to a certain view; another will claim it to be untenable; and with neither will it be other than a matter of speculation. No writer gives the formula for joining the immortal band, nor the prescription for the elixir of life, nor offers a hint to guide one in a search for the philosopher's stone. Commentators have written from the standpoint of safety: for none but a *bona fide* Rosicrucian can point out inaccuracies; and he, for the best of reasons, is silent.

Paracelsus, high-priest among mystics and alchemists, claimed to be a brother, and wrote extensively on the subject; but he died at a comparatively early age. The library of the British Museum contains a copy of "The Chymical Marriage," written by Christian Rosenkreuz, and translated into English by a Cambridge dignitary. The same library possesses several Rosicrucian manifestos issued by one Johann Valentin Andreä. There have been writers who claimed that Martin Luther was a member of the exalted brotherhood; referring to his signet and seal—a rose inclosing a cross—in substantiation. In the library of Göttingen University is preserved a collection of Rosicrucian documents, including several letters purporting to have been written by persons desirous of joining the fraternity.

A present-day writer in England, Hargrave Jennings, has published works on the subject. They contain little that is new, are transcendental, vague, and unsatisfactory. Another contemporaneous writer, Arthur Edward Waite, is responsible for a book which criticises the methods of Jennings with some asperity, and is more satisfactory in its results. These are about the only English writers who

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have treated the subject in a serious vein since Robert Fludd, a man of erudition and high position, who exploited Rosicrucianism in the British Isles in the seventeenth century.

There were published at Cologne in 1615 certain tenets and ordinances of the Rosicrucian brotherhood, formulated by a celebrated physician and student named Michael Maier, who is said to have wasted health and fortune in seeking the philosopher's stone. Maier in his work gave the following rules as governing the conduct of the fraternity:

1. That in their travels they should gratuitously cure all diseases.
2. That they should always dress in conformity with the fashion of the country in which they reside.
3. That once every year they should meet together in the place appointed by the fraternity, or send in writing an available excuse.
4. That every brother, whenever he felt inclined to die, should choose a person worthy to succeed him.
5. That the words "Rose-Cross" should be the marks by which they should recognize each other.
6. That the fraternity should be kept secret for six times twenty years.

Maier asserted that these laws had been found inscribed in a golden book in Rosenkreuz's tomb, and that the six times twenty years had expired in 1604.

When Rosicrucianism first reached Paris, lovers of the marvellous were thrown into a state of commotion and enthusiasm. Mysterious manifestoes, signed with a rose-cross, appeared on walls and hoardings. Paris was wild with excitement, until the clergy took upon themselves the duty of stamping out the so-called imposture. Swindlers in different parts of France covered their depredations with the Rosicrucian mantle; and now and then one was caught and hanged for his too great ingenuity in enticing pearls and precious stones from the pockets of other people, or for passing off lumps of gilded brass for pure gold made by the agency of the philosopher's stone.

The cleverest and most audacious imposture under the rose-cross symbol, was probably that of a gifted and plausible adventurer calling himself the Count de St. Germain, who flashed upon the court of Louis XV, and to whom I have already alluded. No one knew who he was or whence he came. There was a grotesque report that he was the Wandering Jew. Another story proclaimed him the natural son

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of an Arabian prince. But some practical investigators decisively announced that he was the offspring of a Portuguese Jew established in trade at Bordeaux.

Under the patronage of the Maréchal de Belle-Isle, St. Germain made his *début* in the gay capital. Everybody was delighted with the mysterious stranger. His easy assurance imposed upon the highest people. Many who questioned his claim to have lived two thousand years retired in perplexity; bewildered by his presence of mind, his ready replies, his astonishing accuracy on every point mentioned in history, and his fertility of resource. He dressed in a style of the greatest magnificence, sported diamonds of princely value, and made costly presents to the ladies of the court with apparent unconcern. The King looked upon him with marked favor, spent hours at a time in his company, and would suffer no one to criticise his new friend.

Madame de Pompadour was as pleased with St. Germain as was her royal lover. He sold his *elixir vitæ* to all the grand ladies, performed miraculous feats, pretended to remove blemishes from diamonds, and for a time was the wonder of society. In the most familiar manner he would speak of his friendship for a king or grandee who had been dead for centuries; and once, when supping with some not over-intelligent people, he had the impudence to speak of his personal acquaintance with Jesus Christ.

St. Germain had a most astonishing vagabond for a servant, to whom he would often appeal for corroboration when narrating some wonderful event that had happened centuries before. On one occasion St. Germain was relating at a state dinner a conversation he pretended to have had in Palestine, about 1195, with King Richard I of England, whom he described as his particular friend. Signs of astonishment and incredulity were visible on the faces of the company, upon which St. Germain coolly turned to his servant, behind his chair, and asked if he had not spoken the truth.

"I really cannot say," replied the man, without moving a muscle. "You forget, sir, that I have been only five hundred years in your service!"

"Ah, true," said his master, "I remember now: it was a little before your time!"

St. Germain drifted from Paris to Germany, where he died while on a visit to the Prince of Hesse-Cassel, whom he was seeking to convert to Rosicrucianism.

The most widely known of these pretenders, however, was he who

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called himself Count di Cagliostro, a friend of St. Germain. He came from a humble and fairly respectable family in Sicily, named Balsamo, and was born in 1743. As a youth, he led an indifferent and idle life. At a local monastery he was taught the principles of chemistry and physics, but was not looked upon as giving much promise. Such indiscretions as counterfeiting a will and robbing an uncle compelled him to leave home. He wandered into Arabia, where he fell in with a Greek named Altotas, a man versed in the languages of the East and an indefatigable student of alchemy. On one of their voyages, stress of weather drove them into Malta, where the Grand Master of the Knights of Malta, named Pinto, extended his hospitality and induced them to join him in his alchemical researches.

Cagliostro, tiring of Malta, journeyed on, leaving Altotas behind. Furnished with letters from Grand Master Pinto, Cagliostro went to Rome and Naples. In those places he really got his start in quackery, and acquired many friends because of his asserted ability to prolong life and to make gold from lead. He accomplished remarkable "cures," made money fast, wooed a fair Roman, whose charms were as transcendent as her wit was ready and her manners engaging. Mastering the jargon of mysticism, she set out with her husband on a career almost unparalleled.

In 1776, when all Europe was ringing with reports of their marvellous performances, the Count and Countess di Cagliostro appeared in London, where for a time their success was little short of phenomenal. Enough people believed in their Rosicrucian pretensions to make a lively market for the elixir of life; and their possibilities of wealth seemed to be boundless. Unfortunately for their enterprise, the Cagliostros fell into evil hands, a clever gang of swindlers led by a Scotchman, who relieved them of the enormous sum accruing from their occult power. Gold flowed back into their coffers in Brussels, however; and in 1780 they moved to Strasburg, whither their reputation had preceded them. Grand dinners, and profuse generosity to the poor and unfortunate, caused them to be surrounded by the important people of the place. The Countess, then not more than twenty-five, and radiant in youthful beauty, spoke frequently of her son as a fine fellow of twenty-eight, who had for some time been a captain in the Dutch navy. The trick succeeded admirably; and her *salon* was crowded with the women of Strasburg, all anxious to preserve their youthful charms. In the city they made the acquaintance of Cardinal Prince de Rohan, who induced them to visit Paris. Cagliostro's con-

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nection with the intrigues of the court there, and with the Queen's diamond necklace incident, which helped to precipitate the French Revolution, are facts known to every schoolboy.

Cagliostro, through Rohan's falseness, soon found himself in the Bastile, from which he was eventually liberated, going with his wife to Italy. There, in 1789, he was arrested by command of the Papal Government, charged with being a Freemason, a heretic, and a sorcerer. Public opinion caused his death-sentence to be commuted: but he lived only a few months; and his countess immured herself in a nunnery. Cagliostro's fate may have been deserved; but nearly all Europe felt that his sentence for the crimes assigned was disgraceful to the Government that pronounced it.

Students are familiar with the attack on Freemasonry by that master of English composition, Thomas De Quincey, who assailed that Order jointly with the Rosicrucians, pronouncing both of them allied hoaxes. Notwithstanding the force of masterly language, his mad tirade fell to the ground when it was alleged he had but elaborated the long-exploded opinion of a German *savant*. In the American editions of De Quincey's works this unfortunate chapter is omitted; but it is given at great length in the English editions. It is the Rose-Cross degree in Masonry—described by Carlyle as the *ne plus ultra* of Masonry—doubtless, that has caused the confusion on which so much has been written. Mackey, in his "Symbolism of Freemasonry," says the Rosicrucian society resembled the Masonic in its organization and in some of the subjects of its investigation; but it was in no way connected with Freemasonry.

In his time there were those who believed James Crichton—"The Admirable Crichton"—to be a disciple of Rose-Cross; the allegation being based, no doubt, upon the diversified talents and accomplishments which he possessed. His control of languages, mastery in debate, and prowess as a swordsman had probably much to do with the extravagant tales circulated by his rivals and enemies; but the Rosicrucian suspicion was silenced when he fell a victim to the murderous rapier of his dissolute pupil, a son of the Duke of Mantua, at Padua.

When we come to the popular form in which this fascinating subject is introduced to novel-readers, we find it has long been a favorite theme with writers who base their creations on scholarly subjects. The best Rosicrucian of fiction by long odds is *Zanoni*. Bulwer drew this hero on a scale of grandeur and exaltation which proved the marvellous facility of his pen; and the prefatory chapter of the book is a

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sublime instance of creative imagination. A gifted Irish clergyman, Charles Robert Maturin, contributed to this class of narrative a remarkable example in "Melmoth, the Wanderer," published in 1821, a work difficult to meet with until its recent reprint in London. Shelley, while yet a youth, produced "St. Irvyne, or the Rosicrucian," a tale inane and uninteresting. Mary Wollstonecraft, his wife, evidenced greater ability in "The Immortal." A well-written story by Dinah Mulock Craik, entitled "The Rosicrucian," is prized by those who have penetrated this bypath of eccentric reading; and Lew Wallace's recent powerful novel, "The Prince of India," has for its basis this singular superstition in the person of the Wandering Jew. Fictional works dealing with the philosopher's stone, but not distinctly Rosicrucian, are plentiful, the "Memoirs of a Physician" by Dumas being the best of these. In poetry, the myth is best preserved in Pope's "Rape of the Lock"; for Goethe's story of "Faust" can scarcely be classified as Rosicrucian, since his hero purchased immortal youth by a transaction with the Devil.

For about forty years the Rosicrucian Society of England has been established as a public body, in so far as its existence is not itself a secret. A candidate must be a Freemason, it is said, because certain Masonic secrets are revealed to the accepted, which otherwise would be unfair to Masonry. A digest of the rules and ordinances of the Society shows that there are nine classes or grades, the number of brethren in each ranging from three to thirty-three. The honorary president is always a nobleman. An aspirant "must be a believer in the fundamental principles of the Christian doctrine, and a loyal subject," the constitution says. The jewel of the Society, which is suspended from a green ribbon, on which is embossed a cross in rose-colored silk, is of enamelled gold. The insignia of the Supreme Magus is a cross of ebony, surmounted by a gold crown, with gold roses at the extremities, bearing the lozenge of the rose-cross in the centre. Until recently, when lodges—or, speaking accurately, "colleges"—were established in Edinburgh and Yorkshire, the society was composed of 144 members, the square of 12. Of these, 72 comprised the London college, 36 being the statutory number of the subordinate colleges at Bristol and Manchester.

To many, reading without an object is uninteresting and unprofitable, like an aimless walk. The subject of Rosicrucianism is not a scientific one; but it offers a wide field for the delving student or the literary epicure.

FREDERIC COURTLAND PENFIELD.

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A THEORY OF THE DRAMA.

In philosophy novelty is a rare and dangerous thing. Especially is this true in the field of critical æsthetics, first surveyed and plotted by a thinker so sane, so orderly, and so profound as Aristotle. It is, then, a cause of surprise to find two critics of parts, MM. Herckenrath and Faguet, proposing a theory of dramatic pleasure which, at least in the definitive form given it by the latter, is both novel and striking. Whatever we shall conclude as to the soundness of the doctrine, it is very suggestive, and makes an admirable view-point for a new study of some interesting questions.

Since the day of Aristotle, nearly a hundred generations of playgoers have laughed at comic situations and surprises, or wept delightedly at the exhibition of suffering and death; but, until very recent years, our account of dramatic enjoyment has been given in the progressive interpretation of two Aristotelian terms, *mimesis* and *katharsis*, signifying respectively imitation and purgation.

We are told that part of all dramatic pleasure comes from our intellectual delight in imitation in general, and in the correctness of the particular imitation. This is true enough; and it is, moreover, precisely the idea embodied in the current critical phrase, "convincing acting." For it must always be remembered that the drama is a mixed art, and that the pleasure it gives is the joint work of the actor and the playwright. Hence, in our search for the causes of dramatic pleasure we must sit in the playhouse, not in the study. In most of the "little theatres under our hats" the scene-painters are not well enough trained to do the playwright justice. There can be no doubt of the delight afforded an audience by the simple imitation. In the public picture-gallery a common commendation from plain people is, "How natural!", or "How lifelike!" At the play a more comprehensive mirror is held to nature, and nature ogles herself with still greater pleasure.

We are also told—and this relates chiefly to tragedy—that part of the pleasure lies in the subjective effect of *katharsis*. The scholastic interpretation of this term, as "a purification of the emotions through

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pity and terror," was perverted and too formal. It failed to explain our immediate and unreflecting pleasure at the sight of feigned anguish. Hence, when Hume, a subtle and inquiring thinker, came to examine the question, he found it necessary to abandon the formal interpretations of *katharsis* then current, and to find the basis of tragic pleasure, as of all æsthetic delight, in the excitation of sympathy. He pointed out that tragedy affords the spectator the beneficent emotions of sympathy and pity without the pain and trouble of going to action to remove the cause of the pity.

This theory, coming, as it did, at the time of that revival of sensibility which begot such tearful tomes as "The Man of Feeling" and Hervey's "Meditations among the Tombs," seemed for a time all that could be wished. Within the last century, however, a new interpretation of *katharsis* has been developed, which has seemed to combine the advantages of all preceding theories and to account satisfactorily for the deliciousness of the tragic thrill. It is said that *katharsis* is a medical metaphor, meaning precisely what it says, "purgation." We have within us the capability of certain strenuous and profound emotions, which, amid the constraints of every-day life, can never or rarely have full play. Tragedy excites these emotions and gives them vent; and relief and delight result. This doctrine has met with favor from all parties. It pleased Spencer and the physiological psychologists, who glossed it by saying that certain tracts of the nervous system need more exercise than they are wont to get. It also found favor in the eyes of critical idealists like Pater, who held that the end of all art is to make us have life and have it more abundantly. For, before the dramatic purgation, we are heavy and emotionally bilious; after it, fresh and lively.

The way is now prepared for a statement of the new theory. In his "Problèmes d'Esthétique et de Moral," published at Paris in 1898, M. Herckenrath, of Groningue College, propounds, in substance, the following:

Primarily, the delight we experience in seeing on the stage the misfortune or death of a fellow human being is a survival of the primitive barbaric instinct, which took a cruel delight in blood and slaughter. In Rome, a fighting nation, this instinct was at its height; and the circus, as Terence complains, was more popular than the theatre. In the modern bull-fight and kindred entertainments the instinct survives almost unmixed. In more cultivated forms of amusement, al-

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though the instinct survives as the base of the pleasure, it is overlaid by many other things. There is, indeed, a constant alternation and contrast of painful and pleasurable sensations: herein the ultimate pleasure is found.

A few months later, Émile Faguet, a dramatic critic and the author of an excellent study of the sixteenth-century drama, published "Drame Ancien: Drame Moderne." In an elaborate introduction, on the essence of dramatic pleasure, he forsook entirely the Sympathy theory, advocated in France by Saint-Marc Girardin, and took up Herckenrath's "innate malignity" theory, with slight reservation. He extended it, however, and applied it also to tragedy, seeing between comedy and tragedy a difference of degree only. As he illustrates it: "Why do all comedies end with a marriage? Because after this the tragedy begins." Faguet then modifies the Herckenrath theory by adding that what we love most in art is truth to life,—here he touches hands with Aristotle;—but he adds, "and life is always sad and painful." Schopenhauer, whom he quotes, has so far influenced his thinking that he goes on, "An optimistic drama would be false and puerile." He closes his discussion with a line from Petrarch:

"Null' altro che pianto al mondo dura."[1]

The first part of this theory, the common contention of Herckenrath and Faguet, that the germ of dramatic pleasure is in seeing one man get the upper hand of and abuse another, is at least specious. It will appeal strongly to readers favorably disposed toward evolutionistic doctrine. It is in perfect harmony with Herbert Spencer's general æsthetic theory of transmitted or racial association, that all æsthetic sensations, even the most subtle, intimate, and apocalyptic effects of tone and color, are the result of the evolving experience of the race. It is also in accord with his specific teaching regarding sympathy, that it has been developed out of the gregarious instinct of the race, but retarded, in some directions, by the survival of certain barbarous instincts aroused when war and rapine were the business and diversion of the race, and were necessary to its continuance. But it must be noted that the logical end of this position is not so much to explain our actual appetite for blood and horrors as to account for the imperfect sympathy which can look with indifference on a neighbor's pain. It is the answer of anthropology to *Lear's* question in his madness:

"Is there any cause in nature that makes these hard hearts?"

[1] "Only weeping endures in the world."

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It can hardly be denied that some "innate malignity" does exist, other than that involved in the vague idea of man's inhumanity to man. It seems, indeed, that there is innate in every man a certain bullyism. It appears in the child impaling a fly on a pin, in the system of terrorism sometimes found in public schools, and in the ingenuity and refinement with which savage people devise the most horrid tortures. Among grown and civilized men it appears in forms of infinite variety and complexity, from the brutality of the wife-beater to the intellectual bullyism of the legal cross-examination. Psychologists have noticed this trait in human nature and have connected it with the elemental instinct of self-assertion. Ribot calls it the "feeling of strength," and asserts that it is the earliest strictly egoistical feeling to be observed in the child.

It would be strange indeed if this instinct, in life so vital and so variously connected, played no part in the pleasure derived from an art so near to life as the drama. In music-hall vaudeville, and in low comedy in general, why do the audiences laugh convulsively at the sight of some unfortunate person, poor *Pierrot* perhaps, being mauled and clubbed and pummelled? Partly, no doubt, because of a pleasant shock of surprise and delight at the rapid, energetic movement, but more, I think, because of our latent bullyism. We put ourselves sympathetically in the place, not of the mauled, but of the mauler, and are charmed with the idea of such visible activity and self-assertion at another's expense. A study of the rows of eager, flushed faces in the higher places of the theatre, when this kind of business is going on, will prove that there at least the emotion aroused is not sympathy for affliction. Even there, however, some reservation is needed; for the gallery gods enjoy the buffeting better if *Pierrot* has previously shown symptoms of knavishness, whether active or latent. And in any case they prefer the blows and kicks to be bestowed where they will not inflict permanent injury.

The above, however, manifestly applies to a low order of dramatic entertainment. As one ascends the scale of the drama toward the realm of ideal and universal art, the appeal to the crude bully spirit is constantly less. Faguet sees it in the comedy of manners. No doubt it is somewhat involved in our enjoyment at seeing *George Dandin* locked out of his own house, or *Falstaff* tumbled about in a basket of soiled linen; but such incidents are essentially farcical and quite adventitious to the comedy of manners proper. Whatever may have been the case in the seventeenth century, we do not brutally

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gloat over the misfortunes of *Malvolio* or *Orgon*. Our laughter is easy and merry, proceeding from the recognition of divers incongruities; while the basal pleasure we experience at the comedy of manners, which I here typify in "Twelfth Night" and "Tartuffe," lies in seeing at work influences which tend to uncover sham, and make for sanity, common sense, and the fitness of things.

The theory of laughter long held by English philosophy seems at first to support Faguet's theory. Thus Hobbes:

> "The passion of laughter is nothing else than sudden glory arising from sudden conception of some eminency in ourselves by comparison with the infirmity of others."

This theory, however, has been superseded. It was futile to explain the delicious fooling of *Touchstone* or Charles Lamb. In fact, it could not be successfully applied to any great body of literature with the possible exception of the Hebrew Scriptures, where the only laughs are yells of scornful triumph over the confusion of enemies.

If bullyism does exist in the comedy of manners, it is to be seen less in the structure than in the dialogue, where we sometimes find an intellectual equivalent for the fisticuffs of the variety stage. In polite society the blow has largely given place to the smile, not less deadly. Something of this intellectual bullyism was evident, for example, in Dr. Johnson's conversational methods; and it is evident in many forms of personal witticism. We like to see a character on the stage hit by brilliant, biting repartee; and this we may reasonably connect with "innate malignity." But we must admit, as always in imputing bullyism, that a part of the pleasure lies in the intellectual activity and self-assertion between which and bullyism no hard and fast line can be drawn.

As far as comedy is concerned, then, we can agree that the instinct of malignity, as above qualified, is involved in the horse-play, farcical incident, and caustic repartee, which are the usual accompaniments of comedy.

As an element in tragic pleasure, this bully instinct seems even less important; for we do not need to take any account here of the theatre of the Roman decadence, in which men were actually killed for the pleasure of the spectators. In great typical tragedies, such as "Œdipus," "Phèdre," or "King Lear," most of the suffering and death does not take place *coram populo;* and our pleasure is largely explained by the doctrine of *katharsis*, and the justification of the moral order. There are, however, certain aspects of English tragedy which,

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if isolated, may seem to support the "malignity" theory. Herckenrath asserts that in England and America, where the struggle for life is sharper, and audiences are less humanized than in France, malignity plays a greater part on the tragic stage. Both the premises and conclusion of this statement are open to question; but a glance at the Elizabethan stage seems, at first, to bear him out.

Passing by the rough-and-tumble roistering of the later morality, interlude, and early farce-comedy, consider the Elizabethan stage proper. Kyd's "Spanish Tragedy," the source of so much of the business of the Shakespearian theatre, opens bravely with fifteen characters. At the end of the play, the stage is a veritable shambles; and only four of the fifteen are left alive. This sort of thing, in a greater or less degree, became the rule of the early stage. Not to mention the unspeakable horrors of "Titus Andronicus" or "The Duchess of Malfi," there are not wanting critics to tell us that in Shakespeare's historical plays—in "Macbeth," even in "Hamlet"—is more bloody sword-play than is dramatically fitting. The causes of this are not far to seek. In the later years of Elizabeth's reign, when France and Scotland had been awed to quiet, and the Armada had failed to thunderstrike the walls of England, Southwark afforded amusements other than the drama. "The Theatre," "The Curtain," "Blackfriars" were the direct successors of amphitheatres for cock-fighting, bear-baiting, and sword- and cudgel-play. These entertainments even alternated with the regular drama on the boards of the theatres. It is not strange, then, that the sturdy playgoer of the day relished battle, murder, and sudden death on the stage. It even seems probable that he could not find enough there to satisfy him; for many contemporary records exist of disturbances in the neighborhood of the theatres that seem to have been the result of wanton bullyism and love of fight, —the kind of promiscuous trouble, in fact, that one would expect to encounter at Donnybrook Fair.

Owing to this it came about that malignity was undoubtedly a factor in Elizabethan dramatic pleasures; but the particular incidents from which it proceeded were, for the most part, wholly extraneous to the essential dramatic fable and structure. The thick nostrils of the "roaring boys" might indeed dilate at the smell of the blood of *Polonius* or *Laertes;* but the considerate spectator would be more deeply moved by the sad mystery of *Hamlet's* soul, and in the direction of sympathy rather than malignity. As the number of considerate spectators has increased, the ideal aspects of the drama have

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been emphasized, the taste for mere horrors has come to be regarded as morbid, and the horrors themselves have been relegated to melodrama.

Enough has been said concerning the "malignity" theory to show that while that instinct does exist, and does play a part in our dramatic pleasures, it does so only in the lower grades of the drama, in the minds of the less cultivated spectators of the higher grades, or in the lower instincts of the more cultivated spectators. It would seem that there is a kind of sliding scale. As we go up the grades of the drama, malignity vanishes, and sympathy appears in inverse ratio.

The second part of Faguet's theory, although less succinct and demonstrable, is much more profound and far-reaching. It is connected with that mysterious luxury of sorrow which neither the critic, the experimental psychologist, nor the philosopher can adequately explain. It is a deeper thing than the mere sentimental dallying with melancholy which we find in *Jaques*, in *Werther*, or in the blissfully tearful matinee-goer. On one side it touches the world-pain, the poignant sense of sorrow, beauty, and mystery which we find in the finer spirits from Euripides and Vergil to Amiel; on the other, it is concerned with the problem of evil which teases the theologians. In the former phase, it is inseparable from all our art. It is in the cadences of Vergil and in the face of Madonna. It is the soul of music; and that is why *Jessica* says:

"I am never merry when I hear sweet music."

This cosmic melancholy even lies at the root of the truest humor, which some one has defined as "the cry of pain of a well-bred man." In life as well as in books the same thing is found. Even in bereavement, after the first shock and dull anguish are past, people come to take a kind of pleasure in their grief: they taste and sip it as if it were some dull, sweet opiate.

With this array of facts before us, it cannot be denied that there is some truth in the contention, that part of tragic pleasure lies in the recognition of the truth of the tragic event to life, and the resulting luxury of tears and self-pity. But to make this all is to exclude half the evidence. The greatest art, even when Melancholia is the muse, is in its final effect not sad, but hopeful. In "Lear," in "Hamlet," even in "Othello," where at the end our pain is so sharp as to be almost physical, we are saddened only to be sustained and enheart-

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ened. It is not hard to see why this should be so. Our own recognition of and agreement in the working of universal moral laws induce the consciousness of the reality and indestructibility of spirit, and make thus for idealism and optimism. Kant's definition of the sublime applies beautifully to the sublime in tragedy: "The Sublime is that, the mere ability to think which shows a faculty surpassing every standard of sense."

It sometimes happens, however, that, to be representatively human, tragedy must so far concede to pessimism as to allow the death of innocent and faultless characters. In the Greek drama this took the form of blind fate, occasionally introduced despite the objection of the critics. This was the cause of that note of poignant human melancholy, unusual in the lucid calm of classic art, which appeals to us so strangely and vividly in some chorus endings from Euripides. In the form of its modern equivalent, the irony of circumstance, the same thing appears, as in the death of *Cordelia*. Of a piece with this is the dull, stupefying horror we sometimes find in Ibsen and Sudermann. The admirers of this kind of drama will tell us that its greatest merit is its actuality and its truth to life. They say their whole being quivers in eager response to the truth of the depiction of morbid psychology and the conditions of degeneration.

If we fix our attention on this school alone, there would seem to be much truth in the "luxury of grief" division of Faguet's theory; but even here it does not cover all the ground. It is a superficial criticism that sees in Ibsen or Sudermann only shuddering hopelessness. It is not enough to say, with the biological critic, that the wide-spread pleasure taken in this gloomy art is a pathological manifestation, resulting from low vitality, individual or racial. The drama in question does indeed give a morbid kind of pleasure to certain neurotic decadents; but it is also relished by many good fighters. Like the kindred work, in other fields, of Zola or Lombroso, it is liable to misconception, and sometimes, by its lack of humor, to provoke a smile on the lips of the muse of true comedy; but in the last analysis, whatever exceptions may be taken to it from the view-point of idealistic art, it will be seen to be a long way from ineffective Wertherism. A problem plainly stated is one step toward solution.

We see then that the "luxury of grief" theory fails on its own proper ground. It proves inadequate in still another regard: it does not notice that the tragic pleasure is purest and deepest, not when the event is presented in a form of crude verisimilitude, but when it is

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embodied in such perfection of form that the sorrow and the beauty make one mystery. This is the secret charm of elegiac poetry, sometimes flowering in a lonely line, as in Vergil's lament for the young *Marcellus*,

"Manibus date lilia plenis,"[1]

sometimes subtly interfused through many, as in "Highland Mary" or "Thyrsis." At the end of the greatest tragedies a similar feeling is awakened. In his preface to the second edition of the "Lyrical Ballads," Wordsworth notices the necessity for this artistic sublimation of sorrow, and makes metre the chief means; adding:

"This opinion may be further illustrated by appealing to the reader's own experience of the reluctance with which he comes to the reperusal of 'Clarissa Harlowe,' or 'The Gamester'; while Shakespeare's writings, in the most pathetic scenes, never act upon us beyond the bounds of pleasure."

In the case of many uncritical people, another element seems to be involved. In novel-reading they put themselves in the hero's place; while at the play they are forestalled in this by the actor. In the latter case, therefore, greater detachment of mind is possible, and there is more opportunity for the intellectual effects of tragedy. They *see* the tragic event, with its causes and effects, rather than *endure* it, as confirmed novel-readers do.

Despite this, it cannot be doubted that metre and the other formal beauties of tragedy give the reader or spectator a "feeling of the whole" analogous to that produced by his agreement in the operation of the moral law. This the "luxury of grief" theory overlooks.

Finally, there will always be certain cool-headed persons to whom that theory will not appeal at all, who are mainly delighted by the intellectual adroitness manifested by the playwright and demanded in themselves. They take a sympathetic pleasure in the sense of resistance overcome and of difficult material skilfully handled, very like the pleasure with which people watch a clever billiard-player, or juggler of plates. These people also enjoy the vicarious experience of life and consequent food for reflection which they find at the theatre, and take a real though fleeting pleasure in the resulting virtuous resolve. These latter forms of enjoyment are especially common in our own day. The conditions of social life for the past fifty years have tended to repress sensibility; and after the long disuse of the fountain of tears many people feel an actual physical pain in weeping, not to mention the shame experienced at the public exposure of emotion.

[1] "Strew lilies by handfuls."

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In short, we have seen that to make the "luxury of grief" the sole basis of tragic pleasure is inadequate in two important respects. It overlooks the optimistic implication of true tragedy; and it overlooks the intellectual delight afforded by all drama. Art and art criticism should know no nationality; but it is food for thought to consider that the theory comes from France, despite her eager search for the fountain of youth, the best representative of that old world of which Tasso wrote three centuries ago:

"Il mondo invecchia,
E invecchiando intristisce."[1]

Life is a tangled skein; and the art which best represents life is necessarily complex. We may admit, in varying degree to the cause of dramatic pleasure, "innate malignity," "the luxury of grief," the delight in imitation, the relief of purgation, the intellectual delight in skill, the enjoyment of vicarious experience, and the satisfaction at the justification of the moral law; but, in the last analysis, all these elements are seen to be secondary and psychological, rather than ultimate and metaphysical. If we must have the final explanation, we cannot do better than hark back to Hume and agree that there is a certain ultimate pleasure in sympathy. It matters not whether we side with the physiological psychologists and explain sympathy as a highly generalized psycho-physiological property, or say, with the mystics, that it is the manifestation of the essential oneness of spirit. We may synthesize the two, or put all such questions aside as inquiring too curiously, and rest content with sympathy as we feel it: in any case it is perfectly possible to regard it as the ultimate source of our tragic pleasure.

The final effect of the drama, then, would be to make us feel more often the truth and reach of that subtle quatrain by William Watson:

"Momentous to himself, as I to me
Hath each man been that ever woman bore.
Once, in a lightning's flash of sympathy
I felt this truth, an instant but no more."

FERRIS GREENSLET.

[1] "The world grows old,
And, growing old, grows sad."

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